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Vol. I

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, ~~1929~~ 1930

No. ~~642~~ 44

THE BEAUMONT, SOUR LAKE & WESTERN RAILWAY COMPANY, THE FORT WORTH AND DENVER CITY RAILWAY COMPANY, ET AL., APPELLANTS,

vs.

THE UNITED STATES OF AMERICA, THE INTERSTATE COMMERCE COMMISSION, ET AL.

No. ~~643~~ 45

THE UNITED STATES OF AMERICA AND THE INTERSTATE COMMERCE COMMISSION, APPELLANTS,

vs.

THE BEAUMONT, SOUR LAKE & WESTERN RAILWAY COMPANY, THE FORT WORTH AND DENVER CITY RAILWAY COMPANY, ET AL.

APPEALS FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF MISSOURI

FILED FEBRUARY 8, 1930

(34,773, 34,774)

(34,773, 34,774)

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1929

No. 642

THE BEAUMONT, SOUR LAKE & WESTERN RAILWAY COMPANY, THE FORT WORTH AND DENVER CITY RAILWAY COMPANY, ET AL., APPELLANTS,

vs.

THE UNITED STATES OF AMERICA, THE INTERSTATE COMMERCE COMMISSION, ET AL.

No. 643

THE UNITED STATES OF AMERICA AND THE INTERSTATE COMMERCE COMMISSION, APPELLANTS,

vs.

THE BEAUMONT, SOUR LAKE & WESTERN RAILWAY COMPANY, THE FORT WORTH AND DENVER CITY RAILWAY COMPANY, ET AL.

APPEALS FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF MISSOURI

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[fol. 1]

IN UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF MISSOURI

No. 1363

THE BEAUMONT, SOUR LAKE & WESTERN RAILWAY COMPANY, The Fort Worth and Denver City Railway Company, The Galveston, Harrisburg, and San Antonio Railway Company, Houston and Shreveport Railroad Company, Houston & Texas Central Railroad Company, The Houston East and West Texas Railway Company, International-Great Northern Railroad Company, The Kansas City Southern Railway Company, Louisiana & Arkansas Railway Company, Louisiana Railway & Navigation Company, Louisiana Western Railroad Company, Missouri-Kansas-Texas Railroad Company, Missouri-Kansas-Texas Railroad Company of Texas, Missouri Pacific Railroad Company, Morgan's Louisiana and Texas Railroad and Steamship Company, New Orleans, Texas & Mexico Railway Company, The St. Louis, Brownsville and Mexico Railway Company, St. Louis-San Francisco Railway Company, St. Louis, San Francisco and Texas Railway Company, St. Louis Southwestern Railway Company, St. Louis Southwestern Railway Company of Texas, San Antonio & Aransas Pass Railway Company, Texas and New Orleans Railroad Company, and The Texas and Pacific Railway Company, Petitioners,

vs.

THE UNITED STATES OF AMERICA, Defendant

RECORD ENTRY—July 22, 1929

This day come petitioners by attorneys and file Petition.

1—642, 643

IN UNITED STATES DISTRICT COURT

RECORD ENTRY OF FILING OF INTERVENTION OF INTERSTATE COMMERCE COMMISSION—July 29, 1929

This day comes the Interstate Commerce Commission by its attorneys and files Intervention and Answer herein.

[fol. 2] IN UNITED STATES DISTRICT COURT

INTERVENTION OF INTERSTATE COMMERCE COMMISSION—Filed July 29, 1929

To the Honorable Judges of said Court:

In accordance with the provisions of section 212 of the Judicial Code, 36 Stat. L. 1150, we hereby enter the appearance of the Interstate Commerce Commission, as a party defendant, and of ourselves as its counsel, in the above-entitled suit.

Daniel W. Knowlton, Edward M. Reidy.

[File endorsement omitted.]

[fol. 3] IN UNITED STATES DISTRICT COURT

ANSWER OF INTERSTATE COMMERCE COMMISSION—Filed July 29, 1929

The Interstate Commerce Commission, intervening defendant in the above-entitled suit, now and at all times hereafter saving and reserving to itself all and all manner of benefit and advantage of exception to the many errors and insufficiencies in the petitioners' petition contained, for answer thereunto, or unto so much or such parts thereof as it is advised that it is material for it to answer, answers and says:

I

Answering Paragraphs I and II of the petition, the Commission admits, for the purposes of this suit, that the allegations therein contained are true.

II

Answering subdivisions 3 to 24, inclusive, of the petition, the Commission admits and alleges that it made and entered the order dated June 10, 1929, referred to in subdivision 8 of the petition, and made a part thereof as Exhibit 4, in a proceeding then pending before it entitled Docket 15234, In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories; that said proceeding was instituted by the Commission upon its own motion by order dated October 8, 1923, referred to in subdivision 3 of the petition, and attached thereto as Appendix 1, by which certain railroad companies operating in the territories mentioned, including the petitioners herein, were made respondents; that full hearings were had and thereafter the Commission made and entered and served upon all the parties in said proceeding, the report of December 10, 1928, 148 I. C. C. 457, referred to in subdivision 6 of the petition, and made a part thereof as Appendix 3, to which the Commission respectfully refers the Court for information concerning its findings and requirements in the premises; that following the service of the Commission's said report of December 10, 1928, petitioners herein, referred to as Southwestern Lines, filed petition for rehearing, reargument and reconsideration; that pursuant to [fol. 4] said application the proceeding was reopened for reconsideration; and that subsequently the Commission made and entered and served upon all the parties in said proceeding report and order of June 10, 1929, referred to and made a part of the petition as Appendix 4, to which the Commission respectfully refers the Court for information concerning its findings and requirements in the premises; that in said proceeding the parties thereto, including the petitioners herein, were, and each of them was, accorded the full hearing provided for by the Interstate Commerce Act; that in said hearings a large volume of testimony and other evidence bearing upon the matters covered in said reports and order was submitted to the Commission for consideration, including testimony and other evidence submitted on behalf of petitioners herein by their counsel; that at said hearings and subsequently, both orally and in briefs filed in said proceeding, questions relating to said matters

were fully argued and submitted to the Commission for determination on behalf of said parties by their respective counsel, including many of the particular questions raised by petitioners in this suit, whereupon the Commission determined said matters and entered and served upon all the parties to said proceeding, including the petitioners herein, its said reports and order; that said reports and order included the Commission's findings of fact, decision, conclusions, order and requirements in the premises, and that, upon the evidence aforesaid, and as shown in and by said reports, the Commission made the findings and stated the conclusions upon which said order is based.

The Commission further alleges that the findings and conclusions in said reports were and are, and that each of them was and is, fully supported and justified by the evidence submitted in said proceeding as aforesaid.

The Commission further alleges that in making said reports it considered and weighed carefully, in the light of its own knowledge and experience, each fact, circumstance, and condition called to its attention on behalf of the par-[fol. 5] ties to said proceedings by their respective counsel, including matters covered by the allegations of the petition herein.

The Commission further alleges that said order of June 10, 1929, was not made or entered either arbitrarily or unjustly, or contrary to the relevant evidence, or without evidence to support it; that in making said order the Commission did not exceed the authority which had been duly conferred upon it, and the Commission denies each of and all the allegations to the contrary contained in the petition.

Further answering Paragraph IV of the petition, the Commission denies that its said order of June 10, 1929, is invalid for any of the reasons set forth in said paragraph, or for any other reason; and denies that the petitioners will suffer irreparable damage, or any damage, if its said order of June 10 is not stayed and enjoined.

Except as herein expressly admitted, the Commission denies the truth of each of and all the allegations contained in the petition in so far as they conflict either with the allegations herein, or with either the statements or conclusions of fact included in said reports and order of December 10,

1928, and June 10, 1929, which reports and order are hereby referred to and made a part hereof.

All of which matters and things the Commission is ready to aver, maintain, and prove as this Honorable Court shall direct, and hereby prays that said petition be dismissed.

Interstate Commerce Commission, by E. M. Reidy, Assistant Chief Counsel. Daniel W. Knowlton, of Counsel.

[fol. 5a] *Duly sworn to by Joseph B. Eastman. Jurat omitted in printing.*

[File endorsement omitted.]

[fol. 6] IN UNITED STATES DISTRICT COURT

ANSWER OF THE UNITED STATES—Filed Aug. 17, 1929

United States for answer to the petition filed herein against it says:

I

United States admits for the purpose of this suit the allegations contained in paragraphs numbered 1 and 11 of the petition.

II

United States, for answer to paragraphs numbered III and IV of the petition, and the several subdivisions of those paragraphs, admits and alleges that the Interstate Commerce Commission made and entered the order dated June 10, 1929, referred to in subdivision 8 of the petition and made a part thereof as Exhibit 4, in a proceeding then pending before it entitled Docket 15234, In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories; that said proceeding was instituted by the Commission upon its own motion by order dated October 8, 1923, referred to in subdivision 3 of the petition, and attached thereto as Appendix 1, by which certain railroad companies, including the petitioners herein, operating in the territories mentioned were made respondents; that

full hearings were had and thereafter the Commission made and entered and served upon all the parties in said proceeding, the report of December 10, 1923, 148 I. C. C. 457, referred to in subdivision 6 of the petition, and made a part thereof as Appendix 3, to which the Court is respectfully referred for information concerning the Commission's findings and the requirements thereof; that following the service of the Commission's said report of December 10, 1928, petitioners herein, referred to as Southwestern Lines, filed petition for rehearing, reargument and reconsideration; that pursuant to said application the proceeding was reopened for reconsideration; and that subsequently the Commission made and entered and served upon all the parties in said proceeding report and order of June 10, 1929, re-
[fol. 7] ferred to and made a part of the petition as Appendix 4, to which the Court is respectfully referred for information concerning the Commission's findings and the requirements of said order; that in said proceeding the parties thereto, including the petitioners herein were, and each of them was, accorded the full hearing provided for by the Interstate Commerce Act; that in said hearings a large volume of testimony and other evidence bearing upon the matters covered in said reports and order was submitted to the Commission for consideration, including testimony and other evidence submitted on behalf of petitioners herein by their counsel; that at said hearings and subsequently, both orally and in briefs filed in said proceeding, questions relating to said matters were fully argued and submitted to the Commission for determination on behalf of said parties by their respective counsel, including many of the particular questions raised by petitioners in this suit, whereupon the Commission determined said matters and entered and served upon all the parties to said proceeding, including the petitioners herein, its said reports and order; that said reports and order included the Commission's findings of fact, decision, conclusions, order and requirements in the premises, and that, upon evidence aforesaid, and as shown in and by said reports, the Commission made the findings and stated the conclusions upon which said order is based.

The United States further alleges that the Commission's findings and conclusions in said reports are, and each of

them is, fully supported and justified by the evidence submitted in said proceeding as aforesaid.

The United States further alleges that in making said reports The Commission considered and weighed carefully, in the light of its own knowledge and experience, each fact, circumstance, and condition called to its attention on behalf of the parties to said proceedings by their respective counsel, including matters covered by the allegations of the petition herein.

United States expressly denies that in making and enter-
[fol. 8] ing said order of June 10, 1929, the Commission acted arbitrarily, or contrary to relevant testimony or in excess of its authority, or otherwise unlawfully.

United States further denies that said order of June 10, 1929, is unlawful or invalid for any of the reasons set forth in the petition or for any other reason; and denies further that petitioners will suffer irreparable or other damage if said order is not suspended or enjoined.

United States denies, except as herein expressly admitted, the truth of each and every allegation of the petition, in so far as it or they conflict with the allegations herein, or the statements and conclusions of fact contained in said reports and orders of the Commission.

William L. Vandeventer, United States Attorney. John Lord O'Brian, Assistant to the Attorney General. Elmer B. Collins, Special Assistant to the Attorney General.

Duly sworn to by Elmer B. Collins. Jurat omitted in printing.

[fol. 9] [File endorsement omitted.]

IN UNITED STATES DISTRICT COURT

NOTICE OF APPLICATION FOR LEAVE TO INTERVENE—Filed Aug. 31, 1929

To Messrs. F. H. Moore, W. E. Davis, E. T. Miller, M. G. Roberts, G. H. Muckley, H. H. Larimore, C S. Burg, J. R. Turney, Robert Thompson, Solicitors for Petitioners; William L. Vandeventer, John Lord O'Brian, Elmer B. Collins, Solicitors for the United States of America; D. W. Knowlton, E. M. Reidy, Solicitors for Interstate Commerce Commission:

Please take notice that on August 31, 1929, at the opening of Court, or as soon thereafter as Counsel can be heard, we shall appear before his Honor, Judge Reeves, in the court [fol. 10] room usually occupied by him in the Federal Court Building at Kansas City, Missouri, or before such other Judge as is then and there in his stead sitting, and shall present to the Court a petition for an order granting leave to William W. Wheelock and William G. Bierd, Receivers of the Chicago and Alton Railroad Company; Chicago and Eastern Illinois Railway Company; Chicago and North Western Railway Company; Chicago, Burlington and Quincy Railroad Company; Chicago Great Western Railroad Company; Chicago, St. Paul, Minneapolis and Omaha Railway Company; Illinois Central Railroad Company; W. H. Bremner, Receiver of Minneapolis & St. Louis Railroad Company; Minneapolis, St. Paul & Sault Ste. Marie Railroad Company, and Wabash Railway Company, to intervene in the above entitled cause as parties defendant, and for leave to file instanter their joint and separate answer to the petition filed by petitioners herein, copies of which petition, order and answer are attached hereto; at which time and place you may appear if you see fit.

Silas H. Strawn, K. L. Richmond, P. F. Gault, Kenneth F. Burgess, Ralph M. Shaw, A. H. Lossow, J. Carter Fort, M. M. Joyce, L. H. Strasser, F. H. Towner, Solicitors for Interveners.

Received a copy of the foregoing notice and of the petition, order and answer therein referred to, this 31st day of August, 1929.

F. H. Moore, W. E. Davis, E. T. Miller, M. G. [fol. 11] Roberts, G. H. Muckley, H. H. Larimore, C. S. Burg, J. R. Turney, Robert Thompson, Solicitors for Petitioners. Elmer B. Collins, Special Assistant to the Attorney General, Solicitor for United States of America. J. Stanley Payne, Solicitor for the Interstate Commerce Commission.

[File endorsement omitted.]

IN UNITED STATES DISTRICT COURT

PETITION FOR LEAVE TO INTERVENE—Filed Aug. 31, 1929

To the Honorable Judges of said Court:

Now come William W. Wheelock and William G. Bierd, Receivers of The Chicago and Alton Railroad Company; Chicago and Eastern Illinois Railway Company; Chicago and North Western Railway Company; Chicago, Burlington and Quincy Railroad Company; Chicago Great Western Railroad Company; Chicago, St. Paul, Minneapolis and Omaha Railway Company; Illinois Central Railroad Company; W. H. Bremner, Receiver of Minneapolis & St. Louis Railroad Company; Minneapolis, St. Paul & Sault Ste. Marie Railway Company, and Wabash Railway Company; and respectfully show to the Court:

That your petitioners, William W. Wheelock and William G. Bierd, are the duly qualified and acting Receivers of The Chicago and Alton Railroad Company, an Illinois corporation, with their principal office at Chicago, Illinois; that your petitioners, Chicago and Eastern Illinois Railway Company, Chicago and North Western Railway Company, Chicago, Burlington and Quincy Railroad Company, Chicago Great Western Railroad Company and Illinois Central [fol. 12] Railroad Company, are corporations organized and existing under the laws of the State of Illinois, with their principal offices at Chicago, Illinois; that your petitioner, Chicago, St. Paul, Minneapolis and Omaha Railway

Company is a corporation organized and existing under the laws of the State of Wisconsin, with its principal office at St. Paul, Minnesota; that your petitioner, W. H. Bremner, is the duly qualified and acting Receiver of Minneapolis & St. Louis Railroad Company, an Iowa corporation, with his principal office at Minneapolis, Minnesota; that your petitioner, Minneapolis, St. Paul & Sault Ste. Marie Railway Company, is a corporation organized and existing under the laws of the State of Minnesota, with its principal office at Minneapolis, Minnesota; and that your petitioner, Wabash Railway Company, is a corporation organized and existing under the laws of the State of Indiana, with its principal office at St. Louis, Missouri; that all of your petitioners are now and have been in possession of and operating railroads engaged in interstate commerce.

That this proceeding is a suit to enjoin, suspend, set aside and annul a certain order entered by the Interstate Commerce Commission in a proceeding before it entitled, "In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories," its Docket No. 15234; that your petitioners are and were at all times during the pendency of said proceeding, parties in interest thereto before said Interstate Commerce Commission, within the meaning of the statutes of the United States; that they participated in said proceedings before the Interstate Commerce Commission, introducing evidence, filing briefs and arguing the same; that your petitioners are entitled by law to intervene in this cause; that the purpose of this suit is to deprive your petitioners of valuable and substantial rights, to the great benefit and advantage of the petitioners therein; that your petitioners cannot adequately protect said rights and interests unless permitted to intervene herein, and that unless said rights and interests are protected your peti-
[fol. 13] tioners will suffer great and irreparable damage and injury.

Wherefore your petitioners pray that an order be entered permitting your petitioners to intervene in this cause and file instanter their joint and separate answer to the petition filed herein, in the same manner and with like effect as if your petitioners had been named in said original petition as parties defendant.

William W. Wheelock and William G. Bierd, Receivers of the Chicago and Alton Railroad Com-

pany; Chicago and Eastern Illinois Railway Company, Chicago and North Western Railway Company, Chicago, Burlington and Quincy Railroad Company, Chicago, Great Western Railroad Company, Chicago, St. Paul, Minneapolis and Omaha Railway Company, Illinois Central Railroad Company, W. H. Bremner, Receiver of Minneapolis & St. Louis Railway Company, Minneapolis, St. Paul & Sault Ste. Marie Railway Company, Wabash Railway Company, by Silas H. Strawn, K. L. Richmond, P. F. Gault, Kenneth F. Burgess, Ralph M. Shaw, J. Carter Fort, M. M. Joyce, A. H. Lossow, L. H. Strasser, Frank H. Towner, Their Solicitors.

[fol. 14] *Duly sworn to by J. A. Behrle. Jurat omitted in printing.*

[File endorsement omitted.]

IN UNITED STATES DISTRICT COURT

ORDER GRANTING LEAVE TO INTERVENE—Filed Aug. 31, 1929

This cause coming on to be heard upon the petition of William W. Wheelock and William G. Bierd, Receivers of The Chicago and Alton Railroad Company; Chicago and Eastern Illinois Railway Company; Chicago and North Western Railway Company; Chicago, Burlington and Quincy Railroad Company; Chicago Great Western Railroad Company; Chicago, St. Paul, Minneapolis and Omaha Railway Company; Illinois Central Railroad Company; W. H. Bremner, Receiver of Minneapolis & St. Louis Railroad Company; Minneapolis, St. Paul & Sault Ste. Marie Railway Company, and Wabash Railway Company, for leave to intervene herein as parties defendant; and the Court having heard the argument of counsel and being fully advised in the premises:

It is hereby ordered that said William W. Wheelock and William G. Bierd, Receivers of the Chicago and Alton Railroad Company; Chicago and Eastern Illinois Railway Company; Chicago and North Western Railway Company; Chi-

cago, Burlington and Quincy Railroad Company; Chicago Great Western Railroad Company; Chicago, St. Paul, Minneapolis and Omaha Railway Company; Illinois Central Railroad Company; W. H. Bremner, Receiver of Minneapolis & St. Louis Railroad Company; Minneapolis, St. [fol. 15] Paul & Sault Ste. Marie Railway Company, and Wabash Railway Company, be and they are hereby permitted to intervene in said cause as parties defendant.

And it is further ordered that said interveners may file herein instanter their joint and separate answer to the petition filed herein.

Enter:

Albert L. Reeves, Judge.

Dated Aug. 31, 1929.

[File endorsement omitted.]

[fol. 16] IN UNITED STATES DISTRICT COURT

NOTICE OF MOTION FOR LEAVE TO FILE AMENDED PETITION—Filed Sept. 17, 1929

To Messrs. William L. Vandeventer, John Lord O'Brian, Elmer B. Collins, Solicitors for the United States of America; D. W. Knowlton, Solicitor for the Interstate Commerce Commission; Frank H. Towner, Chas. M. Miller, Solicitors for William W. Wheelock and William G. Bierd, receivers for the Chicago & Alton Railroad Company et al., Interveners:

Please take notice that on the 17th day of September, 1929, at the opening of Court, or as soon thereafter as counsel can be heard, counsel for petitioners will appear before the Honorable A. L. Reeves, Judge in the court room usually occupied by him in the Federal Court Building at Kansas City, Missouri, or before such other judge as is then and there in his stead sitting, and will present to the said court a motion for leave to file an amended petition in the above entitled cause, a copy of which is hereto attached.

F. H. Moore, W. E. Davis, Solicitors for Petitioners.

Received a copy of the foregoing notice and of the above described amended petition this 17 day of September, 1929.

Wm. L. Vandeventer, U. S. Atty.; Elmer B. Collins, [fol. 17] D. W. Knowlton, by C. E. Curtis, Asst. U. S. Atty., Solicitors for United States of America. F. H. Towner, Charles M. Miller, Solicitors for William W. Wheelock and William G. Bierd, Receivers for the Chicago & Alton Railroad Company, et al., Interveners. D. W. Knowlton, by C. E. Curtis, Solicitor for the Interstate Commerce Commission.

[File endorsement omitted.]

In United States District Court

Motion for Leave to File Amended Petition—Filed Sept. 17, 1929

Now come petitioners in the above entitled cause and ask leave to file therein an amended petition, a copy of which is hereto attached.

F. H. Moore, W. E. Davis, Solicitors for Petitioners.

[File endorsement omitted.]

In United States District Court

Order Granting Leave to File Amended Petition—Filed Sept. 17, 1929

Now on this day the motion of petitioners for leave to file an amended petition having been heard and considered:

It is hereby ordered that leave is granted petitioners to file said amended petition and that a copy of said amended petition without attachment of appendices 1 to 4 inclusive, [fol. 18] attached to the original petition, shall be served upon defendant and interveners herein.

Albert L. Reeves, Judge.

[File endorsement omitted.]

[fol. 19] IN UNITED STATES DISTRICT COURT

[Title omitted]

AMENDED PETITION—Filed Sept. 17, 1929

To the Honorable the Judges of the District Court of the United States for the Western Division of the Western District of Missouri:

The petitioners, on behalf of themselves, and of such other persons or companies as may have an interest herein, and may, by proper proceedings, become parties hereto, by leave of court first obtained, file this, their amended petition against the United States of America to enjoin, set aside, annul and suspend a certain order hereinafter set forth, of the Interstate Commerce Commission (herein called the "Commission"), which is a commission existing under and by virtue of the Interstate Commerce Act (Title 49, Sections 1-27, United States Code, 1926), and thereupon petitioners complain and say:

I

Parties

1. The petitioners are corporations duly organized and existing under the laws of the following states: The Beaumont, Sour Lake & Western Railway Company, under the laws of the State of Texas; The Fort Worth and Denver City Railway Company, under the laws of the State of Texas; The Galveston, Harrisburg, and San Antonio Railway Company, under the laws of the State of Texas; Houston and Shreveport Railroad Company, under the laws of the State of Louisiana; Houston & Texas Central Railroad Company, under the laws of the State of Texas; The Houston East and West Texas Railway Company, under the laws of the State of Texas; International-Great Northern Railroad Company, under the laws of the State of Texas; The Kansas City Southern Railway Company, under the laws of the State of Missouri; Louisiana & Arkansas Railway Company, under the laws of the State of Delaware; Louisiana Railway & Navigation Company, under the laws

[fol. 20] of the State of Louisiana; Louisiana Western Railroad Company, under the laws of the State of Louisiana; Missouri-Kansas-Texas Railroad Company, under the laws of the State of Missouri; Missouri-Kansas-Texas Railroad Company of Texas, under the laws of the State of Texas; Missouri Pacific Railroad Company, under the laws of the State of Missouri; Morgan's Louisiana and Texas Railroad and Steamship Company, under the laws of the State of Louisiana; New Orleans, Texas & Mexico Railway Company, under the laws of the State of Louisiana; The St. Louis, Brownsville and Mexico Railway Company, under the laws of the State of Texas; St. Louis-San Francisco Railway Company, under the laws of the State of Missouri; St. Louis, San Francisco and Texas Railway Company, under the laws of the State of Texas; St. Louis Southwestern Railway Company, under the laws of the State of Missouri; St. Louis Southwestern Railway Company of Texas, under the laws of the State of Texas; San Antonio & Aransas Pass Railway Company, under the laws of the State of Texas; Texas and New Orleans Railroad Company, under the laws of the State of Texas; and The Texas and Pacific Railway Company, under the laws of the United States of America.

During the pendency of this proceeding, petitioner, the Texas and New Orleans Railroad Company acquired control by lease of and now operates the properties of petitioners The Galveston, Harrisburg, and San Antonio Railway Company, Houston and Shreveport Railroad Company, The Houston East and West Texas Railway Company, Louisiana Western Railroad Company, Morgan's Louisiana and Texas Railroad and Steamship Company, and San Antonio & Aransas Pass Railway Company, and petitioner Louisiana & Arkansas Railway Company (which was not included as a respondent), acquired control by lease of and now operates the property of petitioner, the Louisiana Railway & Navigation Company. Subject to the above explanation, petitioners and all the other railroad companies hereinafter referred to, at all the times herein mentioned, were and now are common carriers engaged in the business of operating railroads for the transportation of passengers and freight in interstate and foreign commerce, and they are all subject to the provisions of the Interstate Commerce Act

and the acts supplemental thereto and amendatory thereof (Title 49, Sections 1 to 27, United States Code, 1926).

The defendant, the United States of America, is being sued by express authority of the Congress of the United States as set forth in an act of October 22, 1913, known as the Urgent Deficiencies Appropriations Act (38 Stat. L. 219, Chapter 32; Title 28, Sections 43-48, United States Code, 1926).

As hereinafter set forth, this suit is brought for the purpose of enjoining and setting aside an order of the Interstate Commerce Commission entered upon its own initiative for the purpose of investigating, under the provisions of sub-division (6) of Section 15 of the Interstate Commerce Act, the reasonableness of divisions of the joint through freight rates as between certain carriers in the Southwestern Region of the United States, which term was defined, [fol. 21] in said proceeding, as embracing the states of Texas, Arkansas, Oklahoma, Louisiana west of the Mississippi River, and Missouri south of the main line of the Missouri Pacific Railroad Company between Kansas City and St. Louis, and certain carriers in Western Trunk Line Territory, which term was defined as embracing the states of Iowa, Minnesota, Wisconsin, Illinois, North Dakota, South Dakota, Missouri on and north of the main line of the Missouri Pacific Railroad Company between Kansas City and St. Louis, and the upper peninsula of Michigan. As stated, the Commission instituted the proceeding upon its own initiative (148 I. C. C. 457, a copy of which is attached designated Appendix 3. A copy thereof is attached as Appendix 3 to the original petition), but in its report (148 I. C. C. 458) it referred to the Western Trunk Lines respondents, which, as it said, were actively seeking increases in divisions, as complainants, and the Southwestern Line respondents, as defendants. As so termed, the complainants were the following Western Trunk Line railroads; The Chicago and Alton Railroad Company, William W. Wheelock and William G. Bierd, Receivers; Chicago and North Western Railway Company, Chicago, Burlington & Quincy Railroad Company; Chicago Great Western Railroad Company; Chicago, Milwaukee and St. Paul Railway Company; Chicago, Saint Paul, Minneapolis and Omaha

Railway Company; Illinois Central Railroad Company; The Minneapolis & St. Louis Railroad Company, W. H. Bremner, Receiver; Minneapolis, St. Paul & Sault Ste. Marie Railway Company; Quincy, Omaha & Kansas City Railroad Company; Chicago and Eastern Illinois Railway Company; and Wabash Railway Company; and the defendants, the following railroads: The Atchison, Topeka and Santa Fe Railway Company; The Beaumont, Sour Lake & Western Railway Company; The Chicago, Rock Island and Gulf Railway Company; The Chicago, Rock Island and Pacific Railway Company; Fort Worth and Denver City Railway Company; The Galveston, Harrisburg, and San Antonio Railway Company; Gulf Colorado and Santa Fe Railway Company; Houston and Shreveport Railroad Company; Houston & Texas Central Railroad Company; The Houston East and West Texas Railway Company; International-Great Northern Railroad Company; The Kansas City, Mexico and Orient Railway Company; Kansas City, Mexico and Orient Railway Company of Texas; The Kansas City Southern Railway Company; Kansas, Oklahoma & Gulf Railway Company; Kansas, Oklahoma & Gulf Railway Company of Texas (this respondent was not included in the Commission's order prescribing divisions); Louisiana Railway & Navigation Company; Louisiana Railway & Navigation Company of Texas (this respondent was not included in the Commission's order prescribing divisions); Louisiana Western Railroad Company; Missouri-Kansas-Texas Railroad Company; Missouri-Kansas-Texas Railroad Company of Texas; Missouri Pacific Railroad Company; Morgan's Louisiana and Texas Railroad and Steamship Company; New Orleans, Texas & Mexico Railway Company; Panhandle and Santa Fe Railway Company; The St. Louis, Brownsville and Mexico Railway Company; St. Louis-San Francisco [fol. 22] Railway Company; St. Louis, San Francisco and Texas Railway Company; San Antonio & Aransas Pass Railway Company; The Texas and Pacific Railway Company; St. Louis Southwestern Railway Company; St. Louis Southwestern Railway Company of Texas; Texas and New Orleans Railroad Company; and Vicksburg, Shreveport & Pacific Railway Company. The Commission in its original

report (148 I. C. C. 459), and in its order of June 10, 1929, prescribing divisions, erroneously included the Texarkana and Fort Smith Railway Company, which had not been made a party to the proceeding. By order dated July 25, 1929, the Commission amended its said order of June 10th, and omitted the Texarkana and Fort Smith Railway Company therefrom. The Commission erroneously included in its said order of June 10th, the Chicago, Milwaukee, St. Paul & Pacific Railroad Company, which had not been made a party to the proceeding. Its predecessor, the Chicago, Milwaukee & St. Paul Railway Company was a party to the said proceeding.

II

Jurisdiction and Venue

2. One of the petitioners, The Kansas City Southern Railway Company has its principal office, as well as its principal operating office, in the City of Kansas City in the Western Division of the Western District of Missouri; and the order of the Commission which is the subject matter of this petition does not relate to transportation or to a matter complained of in a petition before the Commission, but is the result of a proceeding instituted by the Commission, on its own motion, in pursuance of the provisions of subdivision (6) of Section 15 of the Interstate Commerce Act. Suit is brought in the said district in accordance with the provisions of the said Urgent Deficiencies Appropriations Act of October 22, 1913; and petitioners invoke the jurisdiction of this court under the provisions of the said act, of Section 207 of the Judicial Code (Title 28, Sec. 41 (28) United States Code 1926), of the Interstate Commerce Act, and of the Constitution of the United States, and particularly Section 8 of Article 1 thereof, which gives to Congress the power to regulate interstate and foreign commerce, and the fifth amendment of the said Constitution, which provides that no person shall be deprived of life, liberty or property, without due process of law.

III

Proceedings Before the Commission

3. On to-wit, the 8th day of October, 1923, the Commission, upon its own initiative, promulgated an order it which it was recited that:

The Commission having under consideration the matters of divisions of freight rates and charges in western and mountain-Pacific territories as defined in Increased Rates, 1920; 58 I. C. C., 220, 58 I. C. C. 302, and 58 I. C. C., 489.

It is ordered, that a proceeding of inquiry and investigation be, and it is hereby, instituted for the purpose of determining whether the divisions of said rates or charges are and for the future will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between or among the respondent carriers hereinafter named, [fol. 23] within the meaning of paragraph (6) of section 15 of the Interstate Commerce Act, with a view to prescribing just, reasonable and equitable divisions of rates and charges to be received by the several carriers in the event that existing divisions are determined to be unjust, unreasonable, inequitable or unduly preferential or prejudicial.

The order further provided that the petitioners and certain other carriers were made respondents, and that the case should be assigned for hearings at such times and places as the Commission might thereafter direct. A copy of the said order is hereto attached and marked "Appendix 1," and is prayed to be taken and considered a part of this petition as fully as if set out in full herein. (A copy thereof is attached as Appendix 1 of the original petition.)

4. The above order of the Commission of October 8, 1923, did not make all of the railroads in the Southwestern region parties to the above investigation. On to-wit, the 23rd day of September, 1925, the Commission entered an order making the following additional railroads in the Southwestern Region respondents:

St. Louis Southwestern Railway Company, a railroad corporation organized and existing under the laws of the State of Missouri; Louisiana Railway & Navigation Com-

pany, a railroad corporation organized and existing under the laws of the State of Louisiana; Vicksburg, Shreveport & Pacific Railway Company, a railroad corporation organized and existing under the laws of the State of Louisiana; Morgan's Louisiana & Texas Railroad & Steamship Company, a railroad corporation organized and existing under the laws of the State of Louisiana; Louisiana Western Railroad Company, a railroad corporation organized and existing under the laws of the State of Louisiana; and Texas and New Orleans Railroad Company, a railroad corporation organized and existing under the laws of the State of Texas.

5. The petitioners filed a petition with the Commisison in the said proceeding setting forth that there were one hundred and thirty-seven additional railroad companies operating in the Southwestern Region which had not been made parties to the above proceeding, and asking that said companies be made parties. A copy of the said petition is hereto attached, marked "Appendix 2," and is prayed to be taken and considered as a part of this petition as fully as if set forth in full herein. (A copy thereof is attached as Appendix 2 of the original petition.) The Commission, however, on to-wit, the 28th day of November, 1925, entered an order denying the said motion, without any statement of its reasons therefor.

6. The Commission, on December 10th, 1928, rendered its decision (148 I. C. C. 457) in this proceeding. It recited that adjustments had been made by the interested carriers as to divisions on certain traffic, including some traffic between the Western Trunk Line Region and the Southwestern Region, and that (excluding the traffic as to which adjustments in divisions had been made by agreement of carriers) its report dealt with the divisions in the aggregate north and south of Kansas City and St. Louis, Mo., and East St. Louis, Cairo, Gale and Thebes, Ill., respectively, [fol. 24] of the joint rates between points in Western Trunk Line Territory generally east of the Missouri River, and points in the Southwest; also the divisions of the western lines' (that is, Western Trunk Lines' and Southwestern Lines') shares or portions of the joint rates applying on traffic moving between points in the southwest and points

in territory east of the Illinois-Indiana state line and on and north of the Ohio River and the line formed by the Chesapeake & Ohio, Norfolk & Western, and Virginian railroads between Cincinnati, Ohio, and Norfolk, Virginia, including New England and the lower peninsula of Michigan. The Commission further stated (148 I. C. C. 459):

Complainants and defendants alike admit that the divisions in question conform to no systematic and consistent plan, but they are not particularly interested in the revision of individual divisions. What complainants seek and defendants oppose is primarily a finding that the former are entitled to substantially increased revenue in the aggregate out of the traffic under consideration, and a fixation of divisions appropriate to that end.

The Commission made substantially the following findings and conclusions:

(a) That, judged by the average revenue per ton per mile received, in the year 1924, by the Class I carriers (Class I carriers are those whose gross operating revenues equal or exceed one million dollars per year), the general level of rates is somewhere in the n-ighorhood of 25 per cent higher in the Southwestern Territory than in the Western Trunk Line Territory, (148 I. C. C. 469).

(b) That there was no great difference in the average hauls, in the two regions, during the year 1924 (148 I. C. C. 469).

(c) That, during the years 1922, 1923 and 1924, the density of traffic was more than 50 per cent greater in Western Trunk Line Territory than in the Southwest (148 I. C. C. 470-472).

(d) That it is not shown that expense of operation by any means decreases in ratio to increase in traffic density; that it is probable that the chief benefit of heavy density is that overhead costs, such as return on investment are lower per unit of traffic (148 I. C. C. 473).

(e) That the vital thing to ascertain is the relative cost of service in the two groups (148 I. C. C. 473).

(f) That, based on the average freight operating expenses per ton mile in 1924 of Class I carriers operating within the two groups, it cost about 15 per cent more per ton mile to haul freight in the Southwest than in Western Trunk Line Territory (148 I. C. C. 473).

(g) That a better basis for comparison is the amounts needed to cover operating charges, taxes, and a fair return on investment. That the following table shows for 1924 the book investment in the two groups, the net railway operating income and its per cent on investment, the amount of such income which would have been necessary to produce a 5.75 per cent return, and the amount by which the actual income fell short of this return:

[fol. 25]

	Including Santa Fe and Rock Island in both groups		Excluding Santa Fe and Rock Island in both groups	
	Western Trunk lines	Southwestern lines	Western Trunk lines	Southwestern lines
Book investment	$4,886,282,428	$3,480,105,170	$3,593,117,173	$2,186,939,915
Net railway operating income	173,499,840	151,580,221	118,960,151	97,040.532
Per cent on investment	3.55	4.36	3.31	4.44
5.75 per cent return	$280,961,240	$200,106,047	$206,604,237	$125,749,045
Deficiency	$107,461,400	$ 48,525,826	$ 87,644,086	$ 28,708,513

(In the above statement and certain other statements, computations were made by both including and excluding the Santa Fe and the Rock Island railroads, for the reason that those railroads have extensive mileage in both groups.)

After apportioning a part of the "deficiency" to passenger service, the Commission found that, in 1924, the constructive freight revenue per ton mile needed to pay expenses of operation, including a return of 5¾ per cent, was 12.01 mills in Western Trunk Line Territory and 14.29 mills in the Southwest, and, consequently, that the cost of service, including a fair return on investment, was in the neighborhood of 20 per cent greater per ton per mile in the Southwest than in the Western Trunk Line group, based on averages of 1923 and 1924 operations. The Commission stated that such percentage, while open to the criticism that it was either based upon the operations of systems which extended in some instances beyond the group boundaries, or in the case of the strictly group lines, upon an incomplete showing of group operations, was not unfair to the Southwestern railroads for the reason (1) that while both groups contain systems which extend beyond their western boundaries into territory with less favorable operating conditions, the Western Trunk Line group also contains systems, such as the Wabash and Illinois Central, which extend beyond its eastern boundary into Official Territory, with its more favorable operating conditions, and in the case of the Illinois Central, into the Mississippi Valley portion of Southern Territory; (2) that the book values of the Southwestern Region are on a much less conservative basis than those of the central western and northwestern regions, (3) that the computations are not confined to the interchange traffic between complainants and defendants but cover all traffic and there is evidence indicating that a somewhat larger proportion of low grade heavy loading traffic is carried by complainants than by defendants; and (4) that the trend of changing conditions is more favorable to defendants than to complainants (148 I. C. C. 475-6).

(h) That (148 I. C. C. 476) the relative financial condition of the two groups of carriers in indicated by the following table showing net railway operating income stated in percentages of aggregate book investments:

	Including Santa Fe and Rock Island in both groups		Excluding Santa Fe and Rock Island from both groups			
	Western Trunk lines, per cent	Southwestern lines, per cent	Western Trunk lines, per cent	Southwestern lines, per cent	Strictly Western Trunk lines, per cent	Strictly Southwestern lines, per cent
Year 1916	5.74	4.82	5.57	4.03	....	....
Year 1917	4.94	5.19	4.68	4.92	....	....
Year 1921	2.96	3.98	2.14	3.25	....	....
Year 1922	3.42	3.51	3.16	3.12	....	....
Year 1923	3.73	3.87	3.47	3.53	....	....
Year 1924	3.55	4.36	3.31	4.44	2.23	4.81
Year 1925	3.90	4.55	3.59	4.43	....	....
Average	3.98	4.30	3.65	3.95	2.23	4.81

[fol. 26] That (148 I. C. C. 476) the rates of return for individual carriers, viz, the principal Chicago-St. Louis and Chicago-Kansas City lines and the prominent Southwestern lines were as follows in 1922 to 1925, inclusive:

	1922, per cent	1923, per cent	1924, per cent	1925, per cent
Western Trunk Lines:				
Chicago & Alton	1.05	3.59	2.86	2.87
C. & E. I.	3.03	3.82	1.62	2.37
C. B. & Q.	4.52	4.29	4.80	4.60
C. G. W.	.19	1.54	1.59	1.48
C. M. & St. P.	1.90	2.81	2.57	2.27
Illinois Central	5.92	5.17	4.76	4.76
Wabash	1.77	3.84	3.85	4.84
Southwestern Lines:				
A. T. & S. F.	4.61	5.17	4.63	5.16
G. C. & S. F.	6.05	5.67	9.04	7.55
H. & T. C.	4.30	4.44	5.28	4.33
H. E. & W. T.	2.26	1.75	1.91	7.21
I. G. N.	2.87	4.98	5.63	4.52
K. C., M. & O.	Deficit	.22	Deficit	.24
K. C., M. & O. of Tex	Deficit	Deficit	2.41	.47
K. C. S.	2.88	2.60	2.85	3.49
M-K-T.	4.72	3.78	4.29	4.96
M-K-T of Tex	1.63	1.56	5.03	3.28
Mo. Pac.	2.09	2.21	3.81	4.14
St. L. S. F.	3.99	4.72	5.05	5.23
St. L. S. W.	7.05	7.44	4.97	4.81
St. L. S. W. of Tex	Deficit	Deficit	1.33	1.46
Texas & Pacific	2.72	3.84	4.15	4.11

(i) That the cost of operation per ton mile, including all expenses, charges, and a fair return on investment, in all probability does not average as much as 20 per cent higher in the Southwestern than in the Western Trunk Line group (148 I. C. C. 478).

(j) That the financial condition of complainants, on the whole, is not as good as that of defendants.

Finally, the Commission found (148 I. C. C. 478) that the divisions in issue were not just, reasonable and equitable, and that there must be a readjustment, which readjustment it stated should be as follows:

Such a readjustment will, we think, be accomplished if the joint rates are divided, south and north of the gateways, in proportion to assumed rates for the two hauls, the assumed rate for the distance covered by the haul south of the gateway to be the first-class rate for that distance under the present southwestern scale, and north of the gateway to be 80 per cent of the first-class rate for that distance under the same scale in the case of traffic to or from points in Illinois and Wisconsin and 87 per cent in the case of traffic to or from other points in the western trunk-line group. Where differentials are added in either territory in making the rates, such differentials should be deducted before prorating and added to the divisions of the lines in the region in which they apply. In the case of traffic to or from points in official territory east of the Indiana-Illinois State line, the assumed rate used in determining complainants' proportion of the revenue accruing to the western lines should be 80 per cent of the first-class rate under the southwestern scale for the distance covered by complainants' haul minus 10 cents because of the absence of originating or delivering service.

(The "southwestern scale" referred to is a system or "scale" of mileage rates prescribed by the Commission for application on certain traffic between points within the Southwestern Region in Consolidated Southwestern Cases, 123 I. C. C. 203, which was decided subsequent to the close of the evidence in this divisions proceedings.)

The Commission stated further:

It should be borne in mind that under the 80 per cent basis the assumed rates used south of the gateways are 25 per cent greater relatively than those used north thereof, and that under the 87 per cent basis they are 15 per cent greater.

[fol. 27] No order was entered at that time, the respondents being given sixty days' time within which to agree upon an adjustment substantially in accordance with the Commission's findings.

A copy of the said report of the Commission is hereto attached as Appendix 3, and is prayed to be taken and considered as a part of this petition. (A copy thereof is attached as Appendix 3 of the original petition.)

7. Petitioners, and other Southwestern carriers, filed a petition for rehearing, which contained many statistical tables and appendices, calling attention to the large amount of revenue which, by the Commission's decision, would be transferred from the Southwestern carriers to the Western Trunk Line carriers, including such prosperous Western Trunk Line carriers as the Illinois Central Railroad Company, and Chicago, Burlington & Quincy Railroad Company; setting forth many alleged errors, including the contention that the basis proposed by the Commission would not result in a division of revenues in accordance with the Commission's findings, and that the Commission's decision was contrary, in certain particulars to its previous decisions, and asking, on account thereof, as well as the grave questions involved, that the Commission grant a rehearing, reargument and reconsideration of the case. The petitioners offered to prove the additional facts alleged in their petition for rehearing.

8. The Commission on June 10, 1929, modified its report by providing that when the gateway through which the traffic moves is St. Louis, East St. Louis, Cario, Gale or Thebes the Western Trunk Line respondents, shall receive a proportion determined by taking 75 per cent of the first-class rate under the said Southwestern scale instead of 80 per cent as provided in the original report and that when the Western Trunk Line respondents are intermediate carriers, 15c shall be deducted on account of terminal expense instead of 10c, as provided in the original report. With these modifications of its report the Commission denied the petition for rehearing and reargument, and entered an order requiring that the said basis of divisions be established.

The order further provided that the respondents, accordingly as they participate in the transportation, are required

to cease and desist on and after August 1, 1929, and thereafter abstain from asking, demanding, collecting or receiving divisions of the aforesaid joint rates upon other bases than those prescribed by the Commission.

A printed copy of the said report and order designated "Appendix 4," is hereto attached and made a part hereof. (A mimeographed copy of the same document is attached as Appendix 4 to the original petition.)

On July 25, 1929, the Commission made an order amending the second paragraph of its order of June 10, 1929, and omitting the Texarkana and Fort Smith Railway Company from the list of respondents contained in the said paragraph. It further provided that the effective date of the said order of June 10, 1929, should be postponed from [fol. 28] August 1, 1929, to October 1, 1929. A copy of the said order, designated Appendix 5, is hereto attached and made a part hereof.

IV

Grounds for Relief

9. Petitioners allege that, as shown by a test, based on revenues of the month of September, 1928, as was fully set forth in the said petition for rehearing, the basis prescribed in the Commission's report of December 10, 1928 (148 I. C. C. 457) for dividing joint revenues between the Western Trunk Lines and the Southwestern Lines, would increase the amounts received by the Western Trunk Lines, and reduce the amounts received by the Southwestern Lines, in an aggregate amount of not less than $3,000,000 per annum; that with the modifications prescribed in the Commission's report and order of June 10, 1929, the increase to the Western Trunk Line respondents, and the corresponding decrease to the Southwestern Line respondents, would be not less than $2,900,000.00 per annum; and that for the reasons herein stated, the order of the Commission, which takes this large amount of revenue to which, under their existing agreements with the Western Trunk Lines, the Southwestern carriers are entitled, and grants it to the Western Trunk Lines, is unconstitutional, unlawful and void.

10. That the Commission found in its original report that the general level of rates was about 25 per cent higher in

the Southwestern Region than in the Western Trunk Line Region (148 I. C. C. 469) and that the vital thing to be ascertained in this proceeding is the relative cost of service including a reasonable return on the aggregate investments in the two groups; that the Commission, for this purpose, undertook to ascertain the amount of freight revenue which would be required to pay expenses and yield said reasonable return, and divided such aggregate revenue by the ton miles of freight transported by each group to ascertain the average revenue per ton per mile which was required to yield such reasonable return in each group; that thereby the Commission found that the carriers in the Southwestern group are entitled to 20 per cent more revenue, per ton per mile out of the joint rates involved, than are the carriers in the Western Trunk Line group; that, for the purpose of dividing the revenues from the said joint rates between the Western Trunk Line group and the Southwestern group, in accordance with said findings, the Commission in its original report, directed that the Western Trunk Line carriers should receive such a division of the revenue derived from the joint rates, as would be obtained by dividing the said joint rates in proportion to assumed rates for the hauls performed by the Western Trunk Line carrier and Southwestern carrier respectively, the assumed rate for the distance covered by the haul south of the gateway to be the first class rate for that distance under the Southwestern scale of rates (established by the Commission, effective on July 14, 1928) and the assumed rate for the distance covered by the haul north of the gateway to be 80 per cent in the case of traffic, to, from or through the States of Illinois and Wisconsin, and 87 per cent in the case of traffic, to, from [fol. 29] or through other portions of Western Trunk Line territory, of the first class rate for that distance under the same scale. The Commission stated in its report (148 I. C. C. 479), that it should be borne in mind that under the 80 per cent basis, the assumed rates used south of the gateways are 25 per cent greater relatively than those used north thereof, and that under the 87 per cent basis they are 15 per cent greater, plainly indicating the assumption of the Commission that the prescribed formula would yield to the Southwestern carriers a share of the revenue equal to their greater financial needs as found by the Commission; that the said first class rate under the Southwestern scale

is not the scale upon which the said joint rates are based, but is on a higher and different level and bears no definite relation thereto; that the Commission, without any notice to petitioners of its intention to use he said formula, based on the said scale and said percentages, without any evidence being introduced or issue made with regard thereto, and contrary to the facts, arbitrarily and unwarrantedly assumed that the use of the aforesaid formula would produce the result required by its said findings of facts. Petitioners allege that the first knowledge they had of the proposed use of the said formula was when the Commission promulgated its original report in this matter on December 10, 1928; that petitioners thereupon made an exhaustive and careful study of the working of the said formula, by applying the same to the revenues from the joint rates involved, for the month of September, 1928; that, as shown by the said test, the use of the said formula will yield to petitioners very much less than 20 per cent more revenue for the units of service performed by them; that the Southwestern carriers' proportion of the revenues for the month of September, 1928, upon the existing basis of divisions was $3,854,007.02; that upon a mileage prorate (that is, dividing the revenue in proportion to the number of miles the shipments were transported by each group of carriers) it would amount to $3,511,081.08; that the amount which the Southwestern carriers would receive under the formula prescribed by the Commission would be $3,592,503.37, an amount only slightly in excess of such mileage prorate; that the Southwestern carriers would thereby suffer a loss of $261,503.65, or more than $3,000,000 per year under the Commission's proposed bases of divisions as compared with the existing bases; and that the Southwestern carriers, under the Commission's proposed bases of divisions, instead of receiving greater revenue in the proportion of 20 per cent more per mile than the Western Trunk Lines, would actually receive only 5.8 per cent more. Petitioners further allege that these facts were set forth clearly and at great length by petitioners in the petition for rehearing and in appendices attached thereto, but that the Commission refused to grant a petition for rehearing; that the Commission, in denying the petition for rehearing, made some slight modifications in the formula, reducing the percentage from 80 per cent to 75 per cent of the assumed rate in the for-

mula, as to traffic to, from and through the States of Illinois and Wisconsin, via the gateways of St. Louis, Cairo, Gale [fol. 30] and Thebes, and permitting the Southwestern carriers to deduct 15 cents instead of 10 cents, where the Western Trunk Line carriers perform no terminal service, but did not materially change the situation above described; that petitioners have made a test of the effect of the modified formula prescribed by the Commission as applied to the revenues for the month of September, 1928, and that such test shows that, taking the revenue from the joint rates which are specifically covered by the Commission's said order of June 10, 1929, (as elsewhere more fully explained, the order covers divisions of joint rates on shipments between points on the lines of Southwestern respondents and points on the lines of Western Trunk Line respondents, and also on shipments between points on the lines of the Southwestern respondents and certain Eastern territory which pass over the line of a Western Trunk Line respondent, as an intermediate carrier, but there are numerous Southwestern and Western Trunk Line railroads which were not made respondents, so that the order does not apply to divisions of joint rates on shipments originating or having destination at points on the lines of the latter), such revenue of the respondents under the divisions agreed upon by the carriers was divided in the following proportions: $1,632,593 to the Western Trunk Line respondents, and $3,320,756 to the Southwestern respondents; that under the said order of the Interstate Commerce Commission the Western Trunk Line respondents would receive $1,875,485 and the Southwestern respondents $3,077,864, a loss to the Southwestern respondents of $242,892 per month, or $2,914,704 per annum, which amount is arrived at by multiplying the figures for the month of September, 1928, by twelve; that if the said revenue is divided in the manner in which the Commission purported to ascertain the respective revenue needs of the Western Trunk Lines and Southwestern Lines, that is, by dividing the said revenue so that the Southwestern Lines would receive 20 per cent greater revenue per ton per mile than the Western Trunk Lines, the Western Trunk Line respondents would receive $1,765,705 per month and the Southwestern Lines $3,187,644 per month, instead of the above amounts produced by the Commission's order, and consequently the Southwestern re-

spondents would receive $109,780 per month, or $1,317,360 per annum less revenue than according to the Commission's findings they are entitled to; that the said test shows that the Southwestern respondents, instead of receiving 20 per cent greater revenue per ton mile than is received by the Western Trunk Lines, would receive under the Commission's formula only a fraction more than 9 per cent greater revenue per ton mile; that the said order of the Commission will deprive certain of the petitioners of a much larger amount of revenue than their proportionate parts of the said sum of $2,914,704 per annum; that the action of the Commission in prescribing the said formula was based upon issues and assumptions of fact concerning which no evidence was introduced nor any issue tendered in the proceeding before the Commission; that the said conclusions and assumptions were wholly erroneous; that the action of the [fol. 31] Commission in basing its order thereon will result in according to the petitioners substantially less revenue than that to which they are entitled under the Commission's findings, and much less than they are justly, lawfully and equitably entitled to; and that by reason thereof, as well as of the failure and refusal of the Commission to remedy the said error when its attention was called thereto in the petition for rehearing, and to grant a rehearing for that purpose, the aforesaid order of the Commission is erroneous, arbitrary, unreasonable and unlawful, and constitutes a denial of due process of law, in violation of the fifth amendment to the Constitution of the United States.

11. Petitioners further allege that the Commission, for the purpose of ascertaining the basis upon which the joint revenues should be divided between the Western Trunk Line carriers and the Southwestern carriers, undertook to ascertain the financial condition of certain railroads in the Western Trunk Line group and the Southwestern group respectively, including the amount necessary to yield a return of 5¾ per cent upon the aggregate book values of the said respondents, in order to divide the said joint revenues between the said carriers in accordance with the alleged average financial needs of the two groups; that no provision was made, however, by which the increase in the divisions to the Western Trunk Lines prescribed by the Commission should go to, or be commensurate with, or be limited to the

needs of those individual Western Trunk Line carriers, if any, whose need of additional revenue was greater than that of the individual Southwestern carriers, nor that it should be borne by the Southwestern carriers to the extent of and in proportion to their financial ability. The result of the Commission's proposed basis of divisions will be to compel carriers in the Southwestern Territory, whose returns upon their investments are far below a reasonable return, and far below even a return of 5¾ per cent per annum, as shown by the Commission's findings, to contribute a portion of their revenues to certain Western Trunk Line carriers, whose financial condition is much better than that of such Southwestern carriers. For example, The Kansas City Southern Railway Company, one of the petitioners, whose average rate of return for the years 1922 to 1925, inclusive, upon the basis adopted by the Commission, was 2.95 per cent per annum, will, according to the test which was made of the revenues for the month of September, 1928, be compelled to contribute to the Chicago, Burlington & Quincy Railroad Company, whose average rate of return, as found by the Commission, was 4.55 per cent, the additional sum of approximately $19,322.52 per annum on the traffic specifically covered by the Commission's order, or $26,878.08, per annum, if the effect of the Commission's order is to change the divisions on all the traffic between the railroads in the said groups; to the Illinois Central Railroad Company, whose average rate of return, upon the same basis, was 5.15 per cent, the additional sum of approximately $974.28 per annum, under said order, or $834.84 on all of said traffic; to the Wabash Railway Company, whose average rate of return was 3.57 per cent, the additional sum of [fol. 32] approximately $46,360.20 per annum under the specific terms of the Commission's order, or $67,544.88 on all of said traffic; to the Atchison, Topeka & Santa Fe Railway Company, which opposed any change in the divisions, and whose average rate of return, as shown by the Commission, was 4.89 per cent per annum, the sum of approximately $1,767.96 per annum, under said order, or $8,913 per annum, on all of said traffic; and to the Chicago, Rock Island & Pacific Railway Company, as to whose rate of re-

turn the Commission made no finding whatever, in its report, the sum of approximately $36,664.32 per annum under the strict terms of said order, or $51,108.84 per annum, on all of said traffic; that the total amount which the said Kansas City Southern Railway Company will be required to contribute under the said order, in large measure to carriers more prosperous than it is, will be in excess of $200,000.00 per annum under the strict terms of said order, or in excess of $360,000 per annum, on all of the said traffic. Petitioners allege that a similar situation exists as to each of said petitioners, and that the said result is so arbitrary and unreasonable, so inconsistent with and contrary to the purposes of the said proceeding, and to the spirit and intent of the Interstate Commerce Act, that the said order is unlawful and void, and in violation of the due process clause of the 5th Amendment to the Constitution of the United States.

12. Petitioners further allege that the plan adopted in the said proceeding, being based upon the financial condition and necessities of the various carriers, is misconceived, and contrary to the spirit and intent of the Interstate Commerce Act, for the reason that, if it is necessary to furnish financial assistance to less prosperous carriers, such as the Chicago & Alton Railroad Company and the Chicago Great Western Railroad Company, the proper course is to fix divisions as between those lines and all their connections, adjusting the burden to each contributor in proportion to the latter's financial ability, as was done in the Missouri and North Arkansas Divisions case, 68 I. C. C. 47, 98 I. C. C. 118, and the Orient Divisions case, 73 I. C. C. 319, 96 I. C. C. 378. Petitioners further allege that subdivision (6) of Section 15 of the Interstate Commerce Act, which provides for the fixing of divisions as between carriers, does not contemplate or authorize the fixing of divisions as between groups of carriers, in cases like the present one, where neither typical evidence nor the Commission's findings show that the financial, operating and other conditions, affecting the amount of divisions, of the individual carriers in a group, are substantially identical, and where, on the contrary, the evidence and findings show that conditions are very dissimilar, and that if it did authorize such action it would be unconstitutional; that the present plan, the result of which is to

transfer a large amount of the revenues of weak carriers in the Southwestern group to stronger carriers in the Western Trunk Line group, in order to afford some financial assistance to such carriers as the Chicago & Alton Railroad Company, and Chicago Great Western Railroad Company, [fol. 33] is arbitrary, unreasonable and unlawful, in violation of the provisions of the Interstate Commerce Act and of the due process clause of the said Fifth Amendment.

13. Petitioners further allege that if the said proceeding before the Commission were for the purpose of establishing uniform divisions as between the carriers in the Southwestern Region and the Western Trunk Line Region, and if the Commission had authority to change the divisions for that purpose, all of which they deny, the order is unlawful and void for the reason that the Commission failed and refused, after a motion had been made by petitioners, to make parties to the said proceeding all the carriers in the Southwestern Region; and for the further reason that not all of the railroad companies in Western Trunk Line territory were made parties. Petitioners further allege that as stated by the Commission neither the so-called complainants nor defendants desired a revision of the divisional bases to make them more systematic and consistent (148 I. C. C. 459); that the Commission has no authority under the Interstate Commerce Act to make such revision unless such divisions are unjust, unreasonable, inequitable or unduly preferential or prejudicial as between the carriers parties thereto; that there was no proof that such divisions were repugnant to the act in any respect, or of any public interest requiring such revision, unless it were shown that such revision was required (which petitioners deny) on account of the financial condition of certain respondents, in which latter event the order was void for the reasons stated in paragraphs 11 and 12 hereof; that in the absence of a showing of violation of the provisions of the act, the Commission had no power or authority to act; that the said division order does not, according to its terms, apply to all carriers nor to all traffic passing between the Southwestern Region and the Western Trunk Line Region, but only to such traffic as has its origin and destination upon the lines of respondents and to the shares of respondents in such

traffic between points on the lines of respondents in the Southwest and points in the territory east of the Illinois-Indiana State Line and on and north of the Ohio River, and the line formed by the Chesapeake & Ohio, Norfolk & Western and Virginian Railways between Cincinnati, Ohio, and Norfolk, Virginia; that many of the Western Trunk Line carriers and Southwestern carriers were omitted from the proceeding by the Commission and the order does not, by its terms, apply to traffic originating or having destination at points on the lines of the latter; that the order of the Commission instead of simplifying the divisional arrangements will make them confused, complicated and unsystematic, since the Commission's basis is made to apply to only a portion of the joint traffic, and uses an assumed scale of rates, and petitioners allege that for these reasons, the said order of the Commission is arbitrary, discriminatory, and unlawful, and denies to petitioners the due process of law, which is guaranteed by the Fifth Amendment to the Constitution of the United States.

14. Petitioners further allege that although the Commission found that the level of rates in the Southwestern [fol. 34] Region is materially higher than in the Western Trunk Line Region (148 I. C. C. 467-468), the general level of rates being estimated by the Commission at about 25 per cent higher in the Southwestern Region (148 I. C. C. 469), the cost of service in the Southwestern Region is correspondingly higher so that the higher level of rates was justified by the higher cost of service. Petitioners further allege that it is against the public interest and contrary to the spirit and intent of the Interstate Commerce Act that the freight rates paid by the shippers of the Southwestern Region shall be transferred, as the Commission has endeavored to do in this case, to the railroads of the Western Trunk Line Region where a lower level of rates and a lower cost of service prevail; that the proper remedy is for the Commission to increase the rates in the Western Trunk Line Region so far as is necessary for the support of the carriers in that region; and that the said order of the Commission is, on that account, arbitrary, unlawful and void and contrary to the provisions of the Interstate Commerce Act

and to the due process clause of the Fifth Amendment to the Constitution of the United States.

15. Petitioners further allege that neither the Commission nor the complainants introduced in evidence or submitted to petitioners the proposed basis of divisions which the Commission has now ordered to be established, and petitioners' first knowledge of it was when the Commission's report was served; that petitioners consequently had no opportunity to meet the said basis by the introduction of testimony to show its practical workings or otherwise; that petitioners particularly called this fact to the attention of the commission at pages 10 and 140 of their petition for rehearing and asked that the case be reopened on that account; that as has already appeared from the allegations in this petition, the Commission used chiefly the operating statistics of the year 1924; that petitioners in their petition for rehearing protested against the use mainly of such statistics for the single, and now remote, year 1924, and requested that the Commission reopen the hearing in order that statistics for later years, including the year 1928, might be introduced and used by the Commission. The Commission in its report of June 10, 1929, states that no definite offer of proof was made by petitioners, in their petition for rehearing, but petitioners allege that on page 3 of the petition for rehearing it was stated that if the Commission granted the request for a rehearing and reopening of the case, the facts as set forth in Appendix 1, attached to the petition for rehearing, which gives the result of a test of the divisions proposed by the Commission, as applied to revenues for the month of September, 1928, and which, as already stated, in paragraph 10 hereof, where the results of said test are set forth, showed that the formula adopted in the Commission's original report would yield to the Southwestern carriers very much less than the proportion of the revenue due to the Southwestern carriers on account of their greater cost of service, including return on investment, would be introduced in evidence; that on pages 50 et seq. of the petition for rehearing [fol. 35] a number of tables were printed showing that in numerous instances under the proposed basis of divisions the Western Trunk Lines would receive divisions in excess of the amount of their local rates, and it was stated that if

a rehearing was granted the Southwestern Lines would undertake to show these and a great many more instances where the proposed divisions of the Western Trunk Lines would exceed their local rates; that the petition for rehearing was devoted to contesting the fairness and lawfulness of the basis of divisions proposed by the Commission of which, as stated, the petitioners had no notice or knowledge until the report of the Commission was published, and that for all the above reasons, as well as the large amount of revenue involved, it was an abuse of discretion and a denial of due process of law for the Commission to render a decision based on such incomplete data, and to refuse to grant to petitioners a rehearing and a reopening of the case for the purpose of the introduction of further testimony and reargument. That such refusal was highly prejudicial to petitioners is shown by the facts elsewhere set forth herein, and also by the fact that during recent years, the regions in which the Western Trunk Lines are located, have shown a constantly improving financial condition, their condition now being better than that of the carriers in the Southwestern Region. That the return on book value, which was the basis used by the Commission in its report (148 I. C. C. 476), has been as follows:

	1925	1926	1927	1928	First six months of year 1929
Northwestern Region.....	3.60	3.83	3.40	4.05	5.08
Central Western Region.....	4.41	4.86	4.26	4.53	5.83
Southwestern Region.....	4.37	4.56	3.92	4.47	4.69

That the Western Trunk Line Region is situated in the eastern part of what are termed the Northwestern and Central Western Regions, which contain, in their western portions, such sparsely settled states as Montana, Wyoming, Idaho, Nevada, Utah, Arizona and New Mexico. That the condition of the carriers in the said Central Western Region, however, was, during all the said years, better than that of the carriers in the said Southwestern Region, and that the condition of the carriers in said Northwestern Region is constantly improving, and is now better than that of the Southwestern carriers.

16. Petitioners further allege that the Commission based its decision in the present case upon alleged facts and data

which were not submitted in evidence before the Commission, which petitioners did not know were to be used, upon which they had no opportunity to cross examine or introduce testimony, and which were considered and treated by the Commisison, as shown by its reports, as relevant and material, to-wit:

(1) The Commission found that the book values of the railroads in the Southwestern Region are on a much less conservative basis than those of the railroads in the Central Western and Northwestern Regions (148 I. C. C. 475), al- [fol. 36] though no evidence to this effect was introduced in the proceeding before the Commission, and no such issue was made by any party to the proceeding;

(2) The Commission, in its report on reconsideration (156 I. C. C. 104) referred to and considered the average operating revenues, average operating expenses and average hauls for the year 1924 of the Northern Pacific Railroad, the Great Northern Railway, the Western Pacific Railroad and the Union Pacific Railroad, although evidence with reference thereto had not been introduced in the proceeding before the Commission;

(3) The Commission found, in effect, that the operating conditions on those portions of the Wabash Railroad and the Illinois Central Railroad which extend beyond the eastern boundary of Western Trunk Line Territory as described by it, into Official Classification Territory, and in case of the Illinois Central Railroad, into the Mississippi valley, are and were more favorable than the operating conditions on the portions of said railroads which are within Western Trunk Line Territory, although there was no evidence in the proceeding before the Commission with reference to the operating conditions in said Official Classification and Mississippi Valley territories;

(4) The Commission referred to and considered the alleged traffic density for the year 1927 within the Western Trunk Line Territory and Southwestern territory, segregated by states (148 I. C. C. pp. 472-3), although said data was not introduced in evidence in the proceeding before the Commission;

(5) The Commission referred to, considered and used as the basis of the prescribed divisions of the rates between respondents "the first class Southwestern scale," although said scale was not introduced in evidence in the proceeding before the Commission;

(6) The Commission by its report and order of June 10, 1929, prescribed divisions of rates which now apply upon a substantial portion of the traffic interchanged between respondents via the gateways involved in this proceeding, although the present rates were prescribed in Consolidated Southwestern Cases, 123 I. C. C. 203, and became effective subsequent to the close of the evidence in the proceeding before the Commmission and were not in evidence therein;

(7) The Commission assumed and used as the basis for prescribing a so-called "rate pro-rate" of joint rates applying on traffic interchanged by respondents via the gateways involved in this proceeding, assumed rates within Western Trunk Line Territory, which were not introduced in evidence, which do not exist, and which are higher than the actual rates within that territory;

(8) The Commission found or assumed that cost per unit of handling traffic diminishes progressively with the increase in the distance of the haul in the same manner and in the same ratio as the rate per mile diminishes under the first class Southwestern mileage scale of rates, although no evidence to this effect was introduced in this proceeding, and petitioners respectfully allege that it is not a fact;

[fol. 37] (9) The Commission found or assumed that just, reasonable, and equitable divisions of the joint rates involved would be arrived at by dividing the revenues therefrom in the following proportions, to-wit: The proportion to respondents in the Southwestern Territory to be upon the basis of the first class Consolidated Southwestern rates for the distance the traffic is transported by such respondents, and the proportions to the Western Trunk Line respondents to be a stated percentage of the said first class rate under the Consolidated Southwestern scale applicable to the distance the traffic was hauled by said Western Trunk Lines respondents, all as more particularly set out hereinbefore. Petitioners allege that neither the Commission nor

the complainants introduced in evidence or submitted to petitioners this proposed basis of the divisions of said joint rates; that there was no evidence introduced in the proceedings before the Commission showing or tending to show that such basis of divisions would be just, reasonable and equitable, or showing or tending to show that such basis of divisions would accord to respondents in either group, nor to the individual respondents in either group, that portion of the joint revenues to which they were entitled, and no evidence was introduced in the proceeding before the Commission to show what effect the use of such a basis of divisions would have upon the revenues of your petitioners and other carriers in the Southwestern Region, either in the aggregate, or individually; that the petitioners' first knowledge of the aforesaid basis or formula, or of the intention of the Commission to use or prescribe such basis or formula, was when the Commission's original report was served upon them; and that petitioners have not had any opportunity to introduce evidence or testimony, or to show by cross examination or otherwise the practical workings or effect of the use of said formula, or to show whether or not the formula in fact accords to them just, reasonable and equitable divisions of the joint rates involved.

Your petitioners further allege that the consideration by the Commission of the aforesaid matters and things which were not in evidence, and each of them, was unlawful and in violation of the due process clause of the Fifth Amendment to the Constitution of the United States, and that by reason thereof the aforesaid order of the Commission is null and void.

17. Petitioners further allege that the Western Trunk Line carriers, in connection with this proceeding, had secured by negotiation increases in divisions which it was estimated would yield additional revenue of about $3,000,000 per annum (148 I. C. C. 458), and the Commission failed to add that amount to the revenues of the Western Trunk Line carriers, or to otherwise take it into consideration, in computing the relative "costs of service, including a fair return on investment" in the two groups, and for that reason the said order of the Commission is arbitrary, unreasonable, and void, in conflict with the said statutes,

and wih the due process clause of the said Fifth Amendment.

18. Petitioners allege that although the Commission found that the relative cost of service within the Western Trunk Line group and the Southwestern group [fol. 38] is the vital factor, neither the Commission nor any of the so-called complainants presented any evidence in the proceeding before the Commission as to cost of operation upon or the revenues derived from that portion of the lines of the complainants within Western Trunk Line Territory as described in the Commission's report, and the only evidence before the Commission with reference to such costs and revenues was the average cost of operation and revenues for the entire systems of the Western Trunk Lines, many of which have substantial mileage extending into other territories where the cost of operation is greater than the cost of operation in that portion of their lines in Western Trunk Line Territory as hereinbefore described; that on pages 90 and 91 of the said petition for rehearing the Commission's attention was called to the fact that witnesses for complainants had testified that cost of operation was considerably greater on portions of their lines west of Western Trunk Line Territory, but the Commission persisted in using such evidence as to cost of operation upon said entire systems; and that, by reason of the foregoing, the reports and order of the Commission are not based upon any proper, competent or substantial evidence and are arbitrary, unreasonable and unlawful and in violation of the provisions of the Fifth Amendment of the Constitution of the United States.

19. Petitioners further allege that the action of the Commission in making an order, the effect of which is to abrogate divisions agreements voluntarily entered into between the Western Trunk Line carriers and the Southwestern carriers, and to deprive the Southwestern carriers, the majority of which are receiving much less than a fair return on their investments, and which carriers as a whole are receiving much less than a fair return on their investments, of a large amount of revenue, (which will be net revenue, since the amount of service to be performed will not be reduced), upon the incomplete and insufficient data

used by the Commission, against the protests of petitioners, for example, in using revenue and other statistics of the entire railroad systems, as above explained, instead of the portions thereof which are located in said Western Trunk Line and Southwestern Regions, in failing to secure and use statistics for the year 1925, 1926, 1927 and 1928, in failing to ascertain the condition of each individual respondent, and to make its order in accordance therewith, and in failing to provide in the order for adjustments or exceptions as to individual carriers, in whole or in part, on proper showing, was so arbitrary, unreasonable and unlawful, that the said order is null and void.

20. Petitioners further allege that the order of June 10, 1929, orders and requires the respondents in the proceeding before the Commission to establish and to maintain after August 1, 1929, (the effective date was afterward postponed to October 1, 1929) and thereafter (until further order of the Commission) to abstain from asking, demanding, collecting or receiving divisions of the joint rates involved upon any bases other than the bases specifically prescribed by the Commission in said order, and that the Com- [fol. 39] mission thereby fixed and prescribed not only the maximum divisions to be paid to the Western Trunk Line respondent, but also the minimum division which the said Western Trunk Line respondents may hereafter receive, and denied to said respondents the right to agree upon or voluntarily accept any lower bases of divisions than those prescribed by said Commission; that the said order applies to all the railroad companies which are made respondents in road companies in the Southwestern Territory and Western Trunk Line Territory which are not made respondents; and which are competitors of petitioners. Petitioners further allege that the Commission has no lawful power or authority to fix or prescribe the minimum divisions of joint rates which common carriers may pay or receive, and that by the issuance of the aforesaid order the Commission exceeded the powers conferred upon it by law, and that said order is unlawful, discriminatory, null, void and of no effect.

21. Petitioners further allege that the Commission by its order requires the Southwestern respondents to pay and

the Atchison, Topeka and Santa Fe Railway Company and the Chicago, Rock Island and Pacific Railway Company to accept and receive increased divisions out of the joint rates involved, notwithstanding the fact that the Chicago, Rock Island and Pacific Railway Company did not participate in the proceeding before the Commission, introduced no evidence, and demanded no increase in divisions, and further that the Commission in its report made no finding as to the financial condition of said carrier; and notwithstanding the fact that the Atchison, Topeka and Santa Fe Railway Company did not demand any increase in divisions from the Southwestern respondents, but at all times actively and vigorously opposed any change in the divisional basis, and contended that the existing divisions were and are just, reasonable, equitable and non-prejudicial; that the Commission in its order requires petitioners to pay increased divisions to the Chicago, Milwaukee, St. Paul & Pacific Railway Company, although it was not a party to said proceeding, and had not been substituted for the Chicago, Milwaukee & St. Paul Railway Company, whose property it purchased at foreclosure sale; and that by reason of the foregoing, the order of the Commission insofar as it requires the Southwestern respondents to pay and the Chicago, Rock Island and Pacific Railway Company, Chicago, Milwaukee, St. Paul and Pacific Railway Company, and/or the Atchison, Topeka and Santa Fe Railway Company to accept and receive divisions upon the bases prescribed by the Commission, is not in accord with the issues in the proceeding before the Commission, is not supported by the Commission's findings and is arbitrary, unlawful, in violation of the Interstate Commerce Act and in violation of the due process clause of the Fifth Amendment to the Constitution of the United States.

22. Petitioners further allege that the traffic to or from points on the lines of carriers operating in Central Freight Association and Official Classification Territories (hereinafter called Eastern Lines), from or to points in the South- [fol. 40] west, when moving via the lines of the Western Trunk Line respondents, is a very substantial proportion of the traffic covered by the report and order of the Commission; that the joint rates on said traffic are first divided with reference to the total hauls east and west of the Mis-

sissippi River; that the divisions west of the Mississippi River are subdivided between the Western Trunk Line carriers and the Southwestern carriers; that the divisions east of the River are sub-divided between the Western Trunk Line carriers and the Eastern Lines; that the Southwestern carriers have no voice in or control over the subdivisions accorded the Western Trunk Lines for service performed by them east of the River but such sub-divisions are determined and agreed upon by and between the Western Trunk Line carriers and the Eastern Lines; but that notwithstanding these facts, the Commission, by its report and order of June 10, 1929, prescribed divisions between the Western Trunk Line respondents and Southwestern respondents based upon the total revenue received by the Western Trunk Lines (for the hauls both east and west of the Mississippi River) and upon the total hauls performed by them; that the Commission did not make the said Eastern Lines parties to the proceeding before it and made no investigation to determine whether the alleged failure of the Western Trunk Line respondents to receive just, reasonable and equitable divisions is the result of the basis of divisions accorded them by the Eastern Lines; that no evidence showing the aforesaid subdivisions east of the Mississippi River was introduced in the proceeding before the Commission; that the Commission failed and refused to make all of the direct connections of the Western Trunk Line respondents, parties to the proceeding before it; and that by reason of the foregoing, the order of the Commission is arbitrary, unlawful and in violation of the Interstate Commerce Act, and the said Fifth Amendment.

23. Petitioners allege that the Commission's formula for dividing the joint rates involved is based upon an assumed level of rates for the carriers in Western Trunk Line territory which is materially higher than the level of rates actually maintained within that territory; that if this assumed level of rates is the proper level for application within Western Trunk Line territory, the carriers within that territory are lawfully entitled to an increase in their rate level, but if such increase in rates were accorded them, then their financial condition would be materially improved and the Commission has no means of ascertaining what basis of divisions should be

accorded the carriers in the two groups if the assumed level of rates were established in Western Trunk Line territory; that the class rates within Western Trunk Line territory are now under investigation in a proceeding before the Commission; and that, by reason of the foregoing, the reports and order of the Commission are based upon insufficient evidence, and are arbitrary, unreasonable and unlawful.

24. That the Commission could not lawfully make an order fixing divisions of the said joint rates without taking into consideration the situation, financial and otherwise, of [fol. 41] each individual carrier which was a party to the joint rates; that such requirement was not satisfied by the statements of averages for groups of carriers which were used by the Commission; that the tables used by the Commission in its opinion, showing the return upon investment of the various carriers, showed that the financial conditions of the different carriers in the Southwestern Group were widely dissimilar, some of said carriers earning nearly a reasonable return and some earning practically no return, or a small return, so that the tables and data used by the Commission not only did not show by typical evidence that conditions in the Southwestern Group were so similar that a common divisional order could be made which would result in substantial justice to all respondents in the said group, but, on the contrary, the tables and data used by the Commission conclusively showed that conditions were so dissimilar that no common divisional order could be made which would result in substantial justice to all the respondents affected by the said order, and the same thing was true as to the respondents in the Western Trunk Line group. For the above reason, the said order of the Commission is null and void and denies to petitioners due process of law.

25. All the evidence, and the findings of the Commission, show that none of the petitioners herein is earning a reasonable return upon its investment, and the order of the Commission which takes from each of the said petitioners a portion of its revenue is, consequently, confiscatory, null and void, and a deprivation of the property of each of said petitioners without due process of law.

26. That the burden of proof in this proceeding was upon the Interstate Commerce Commission which instituted the proceeding upon its own initiative, and upon the Western Trunk Line respondents which were termed complainants by the Commission; that the said parties have failed to sustain the burden of proof, and the order of the Commission is therefore arbitrary and void.

27. The examiner of the Interstate Commerce Commission who presided at the taking of the testimony in this proceeding repeatedly stated that this proceeding was not a financial case; that is, that it was not to be decided according to the financial condition of the various respondents, or of the two groups. The vital point upon which the Commission decided the matter was the financial necessities and abilities of the two groups of railroads. The petitioners therefore had no notice of the issue upon which the case was decided, and the order of the Commission is therefore arbitrary, null and void, and in conflict with the due process clause of the Constitution of the United States.

28. That the Commission made an order requiring the following respondents: The Beaumont, Sour Lake & Western Railway Company, The Fort Worth & Denver City Railway Company, The Galveston, Harrisburg & San Antonio Railway Company, Houston & Shreveport Railroad Company, Kansas, Oklahoma & Gulf Railway Company, [fol. 42] Louisiana Railway & Navigation Company, Louisiana Western Railroad Company, Morgan's Louisiana & Texas Railroad & Steamship Company, New Orleans, Texas & Mexico Railway Company, The St. Louis, Brownsville & Mexico Railway Company, St. Louis, San Francisco & Texas Railway Company, San Antonio & Aransas Pass Railway Company, Texas & New Orleans Railroad Company, and Vicksburg, Shreveport & Pacific Railway Company, so-called defendants, to pay increased divisions to the Western Trunk Line respondents, although there are no facts stated or findings or conclusions by the Commission as to the individual financial condition, or other facts bearing upon the proper basis of divisions as to any of the said respondents, and the Commission ordered the payment of increased divisions to the following so-called complainants among the respondents: Chicago & Northwestern

Railway Company, The Chicago, Rock Island & Pacific Railway Company, The Chicago, Rock Island & Gulf Railway Company, Chicago, St. Paul, Minneapolis & Omaha Railway Company, The Minneapolis & St. Louis Railroad Company and W. H. Bremner, Receiver, and Minneapolis, St. Paul & Sault Ste. Marie Railway Company, although no facts are stated or findings or conclusions made by the Commission in its said reports as to the individual financial condition, or other facts bearing upon proper divisions as to any of the said complainants; and that the facts stated as to the other individual respondents are entirely insufficient to base any conclusion or order on. Petitioners allege that for the above reason also, the said order of the Commission is null and void.

29. The findings and conclusions of the Commission, and all the evidence introduced in the said proceeding, are insufficient to sustain the said order, and the same is therefore arbitrary, unlawful and void, and deprives petitioners of their property without due process of law, in violation of the said Fifth amendment.

All of the matters herein alleged petitioners offer to prove.

For all of the reasons above stated, the said order of the Commission is arbitrary, unreasonable, unlawful and void and in violation of the provisions of the Interstate Commerce Act and of the due process clause of the Fifth amendment to the Constitution of the United States.

Petitioners allege that some of the so-called complainants are insolvent and unable to respond in damages or to make refunds of any of the divisions which would come into their possession, should the said order of the Interstate Commerce Commission take effect and later be judicially held to have been unlawfully made and entered. Petitioners further allege that said order will take so much of the net revenues of some of the said petitioners as to seriously endanger their ability to pay their operating expenses, taxes, interest and dividends. The said order of the Interstate Commerce Commission provides that it shall take effect on October 1, 1929, and, unless it be suspended or set aside by an order of this Court, will work irreparable damage to each and all of the petitioners.

Wherefore, petitioners pray that upon the filing and presentation of this petition, a temporary or interlocutory [fol. 43] injunction suspending, restraining and enjoining the operation of the said order of the Interstate Commerce Commission herein complained of, be made by the Court, after a notice of five days to the Interstate Commerce Commission and the Attorney General of the United States, because of the irreparable damage which will result to petitioners unless such suspension be made or such temporary or interlocutory injunction be granted, and that the Commission be restrained from taking any steps or instituting any proceedings to enforce the said order, pending a hearing on this petition; that upon the hearing of this cause a decree be entered setting aside and annulling the said order of the Interstate Commerce Commission and perpetually enjoining and restraining the enforcement of the said order, and that petitioners may be granted such other and further relief as to the Court may seem meet and proper.

F. H. Moore, W. E. Davis, E. T. Miller, M. G. Roberts, J. R. Bell, G. H. Muckley, H. H. Larimore, C. S. Burg, J. R. Turney, Robert Thompson, Solicitors for All Petitioners.

Duly sworn to by H. A. Weaver. Jurat omitted in printing.

[fol. 44] APPENDIX 1 TO AMENDED PETITION

Order

AT A GENERAL SESSION OF THE INTERSTATE COMMERCE COMMISSION, HELD AT ITS OFFICE, IN WASHINGTON, D. C., ON THE 8TH DAY OF OCTOBER, A. D. 1923

No. 15234

In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories

The Commission having under consideration the matter of divisions of freight rates and charges in Western and

Mountain-Pacific territories as defined in Increased Rates, 1920; 58 I. C. C. 220, 58 I. C. C. 302, and 58 I. C. C. 489;

It is ordered, that a proceeding of inquiry and investigation be, and it is hereby, instituted for the purpose of determining whether the divisions of said rates or charges are and for the future will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between or among the respondent carriers hereinafter named, within the meaning of paragraph (6) of section 15 of the Interstate Commerce Act, with a view to prescribing just, reasonable and equitable divisions of rates and charges to be received by the several carriers in the event that existing divisions are determined to be unjust, unreasonable, inequitable or unduly preferential or prejudicial;

It is further ordered, that The Atchison, Topeka and Santa Fe Railway Company; The Beaumont, Sour Lake & Western Railway Company; The Chicago and Alton Railroad Company, William W. Wheelock and William G. Bierd, Receivers; Chicago & North Western Railway Company; Chicago, Burlington & Quincy Railroad Company; Chicago Great Western Railroad Company; Chicago, Milwaukee and St. Paul Railway Company; The Chicago, Rock Island and Gulf Railway Company; The Chicago, Rock Island and Pacific Railway Company; Chicago, St. Paul, Minneapolis and Omaha Railway Company; The Colorado and Southern Railway Company; The Denver and Rio Grande Western Railroad Company, T. H. Beacom, Receiver; El Paso and Southwestern Company; Fort Worth and Denver City Railway Company; The Galveston, Harrisburg and San Antonio Railway Company; Great Northern Railway Company; Gulf, Colorado and Santa Fe Railway Company; Houston and Shreveport Railroad Company; Houston & Texas Central Railroad Company; The Houston East and West Texas Railway Company, Illinois Central Railroad Company; International-Great Northern Railroad Company; The Kansas City, Mexico & Orient Railroad Company, Wm. T. Kemper, Receiver; Kansas City, Mexico and Orient Rail-
[fol. 45] way Company of Texas; The Kansas City Southern Railway Company; Kansas, Oklahoma & Gulf Railway Company; Los Angeles and Salt Lake Railroad Company; The Minneapolis & St. Louis Railroad Company, W. H.

Bremner, Receiver; Minneapolis, St. Paul & Sault Ste. Marie Railway Company; Missouri-Kansas-Texas Railroad Company; Missouri-Kansas-Texas Railroad Company of Texas; Missouri Pacific Railroad Company; New Orleans, Texas & Mexico Railway Company; Northern Pacific Railway Company; Northwestern Pacific Railroad Company; Oregon Short Line Railroad Company; Oregon-Washington Railroad & Navigation Company; Panhandle and Santa Fe Railway Company; Quincy, Omaha & Kansas City Railroad Company; The St. Joseph and Grand Island Railway Company; The St. Louis, Brownsville and Mexico Railway Company; St. Louis-San Francisco Railway Company; St. Louis, San Francisco and Texas Railway Company; St. Louis Southwestern Railway Company of Texas; The San Antonio and Aransas Pass Railway Company; San Diego and Arizona Railway Company; Southern Pacific Company; Spokane International Railway Company; Spokane, Portland and Seattle Railway Company; The Texas and Pacific Railway Company, J. L. Lancaster and Charles L. Wallace, Receivers; Union Pacific Railroad Company and The Western Pacific Railroad Company be, and they are hereby, made respondents in this proceedings;

And it is further ordered, that this case be assigned for hearing at such times and places as the Commission may hereafter direct.

By the Commission:

George B. McGinty, Secretary. (Seal.)

[fol. 46] APPENDIX 2 TO AMENDED PETITION

BEFORE THE INTERSTATE COMMERCE COMMISSION

I. C. C. Docket No. 15234

In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories

Petition of Respondents in Southwestern Territory for an Order Making Various Other Carriers in Southwestern Territory Respondents in This Proceeding

Now come Missouri-Kansas-Texas Railroad Company, Missouri-Kansas-Texas Railroad Company of Texas, Mis-

souri Pacific Railroad Company, St. Louis-San Francisco Railway Company, St. Louis Southwestern Railway Company, St. Louis Southwestern Railway Company of Texas, Kansas City Southern Railway Company, Galveston, Harrisburg & San Antonio Railway Company, Houston & Shreveport Railroad Company, Houston East & West Texas Railroad Company, Morgan's Louisiana & Texas Railroad & Steamship Company, Texas & New Orleans Railroad Company, The Texas & Pacific Railway Company, respondents herein, on behalf of themselves and such other respondents similarly situated as may desire to join herein, and respectfully request this Commission to issue an order making the carriers, hereinafter referred to, respondents in this proceeding, and in support of this petition represent and show unto this Commission as follows:

On October 8, 1923, this Commission, having under consideration the matter of divisions of freight rates and charges in Western and Mountain-Pacific Territories, entered an order herein upon its own motion directing that an inquiry and investigation be instituted for the purpose of determining whether the divisions of said rates or charges were and for the future would be unjust, unreasonable, inequitable or unduly preferential or prejudicial as between or among the respondent carriers named in said order within the meaning of paragraph six of section 15 of the Interstate Commerce Act, with a view to prescribing just, reasonable and equitable divisions of rates and charges to be received by the several carriers in the event that the existing divisions were determined to be unjust, unreasonable, inequitable or unduly preferential or prejudicial. By this order various carriers were made respondents in this proceeding, including a number of the principal lines operating in Southwestern territory. Originally the hearings in this proceeding were confined to the divisions of rates [fol. 47] between the transcontinental lines and the Western Trunk Lines. On June 17, 1925, however, this Commission issued a notice assigning this proceeding for further hearing at Chicago, July 7, 1925, before Examiner Disque, at which time it was stated in said notice testimony would be received with reference to the matter of divisions of joint rates between Western Trunk Line territory and Southwestern territory. On July 6, 1925, this Commission issued

a notice canceling the hearing set for July 7, 1925, at Chicago. On August 26, 1925, notice was issued assigning this proceeding for hearing October 14, 1925, at Chicago, before Examiner Disque, when evidence would be received only with respect to divisions between Western Trunk Line territory and Southwestern territory. On September 23, 1925, this Commission issued an order naming certain additional Southwestern carriers as respondents herein. At the hearing on October 14, 1925, the Western Trunk Line carriers introduced a part of their testimony in chief but did not complete their evidence and the hearing was adjourned to November 16, 1925, at Chicago, to enable them to complete their case.

Respondents attach hereto, marked "Appendix A," a list of carriers in Southwestern territory not now parties hereto which they request this Commission by an appropriate order to make respondents in this proceeding. Respondents state that said carriers unite with them in the publication of joint rates, the divisions of which are involved herein, participate in the transportation of the traffic to which said joint rates apply and receive substantial divisions and earnings out of said joint rates. Many of the divisions in Southwestern territory have been fixed by this Commission, such as those between the so-called tap lines and trunk lines, between the Missouri & North Arkansas Railway Company and its immediate connections and between the Kansas City, Mexico & Orient lines and their immediate connections, but the present proportions should not remain stationary if the primary divisions are readjusted. As the record now stands, however, no order can be made by this Commission affecting their revenues.

Respondents further state that since this is an investigation of divisions instituted by the Commission on its own motion it should not content itself with dealing with the main or primary divisions of the joint rates between the immediately connecting Western Trunk Lines and Southwestern lines north and south of the gateways of Kansas City, St. Louis, Cairo, Thebes, etc., but should also deal with and prescribe the necessary readjustment of divisions which apply in subdividing the revenue accruing to all lines participating in the joint rates in Southwestern territory.

Respondents further allege that if, as a result of this inquiry and investigation, the Western Trunk Lines are ac-

corded increases in their divisions, and the carriers listed in Appendix A are not made respondents herein, these respondents will be compelled to absorb the entire increases out of their divisions. The result will be that these respond- [fol. 48] ents will receive divisions of rates which are unjust, unreasonably low, inequitable and inadequate for the service performed by them. Moreover, if the divisions of these respondents are reduced and the shares of all other lines which participate in the joint rates and the transportation of the traffic in Southwestern territory, including the lines named in Appendix A hereto, are left unchanged, controversies will immediately arise as to a readjustment of the divisions between these respondents and said carriers, and this Commission will be called upon to determine and prescribe the divisions which shall be received by the various carriers within Southwestern territory. Such controversies will result in a multiplicity of proceedings before this Commission. Hence, these respondents contend that in justice and fairness to them any readjustment of the primary divisions as between the Western Trunk Lines and Southwestern lines should be accompanied by a simultaneous readjustment of the divisions between all lines participating in the joint rates and transportation of the traffic in Southwestern territory, and that such readjustment should not be left to future proceedings before this Commission, but should be determined and prescribed herein. Respondents state that it is entirely practicable to fix the subdivisions of the rates in Southwestern territory in this proceeding and that no delay will result from making the carriers listed in Appendix A parties to this case.

Wherefore, respondents pray that an order issue making the carriers listed in Appendix A hereto respondents in this proceeding.

Missouri-Kansas-Texas Railroad Company, Missouri-Kansas-Texas Railroad Company of Texas, by C. S. Burg, Their Attorney. Missouri Pacific Railroad Company, by H. H. Larimore, Its Attorney. St. Louis-San Francisco Railway Company, by M. G. Roberts, Its Attorney. St. Louis Southwestern Railway Company, St. Louis Southwestern Railway Company of Texas, by J. R. Turney, Their Attorney. Kansas City Southern

Railway Company, by W. E. Davis, Its Attorney. Galveston, Harrisburg & San Antonio Railway Company, Houston & Shreveport Railroad Company, Houston East & West Texas Railroad Company, Morgan's Louisiana & Texas Railroad & Steamship Company, Texas & New Orleans Railroad Company, by Baker, Botts, Parker & Garwood, J. R. Bell, G. H. Muckley, Their Attorneys.

[fol. 49] APPENDIX 3 TO AMENDED PETITION

14028

INTERSTATE COMMERCE COMMISSION

No. 15234

In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories

Submitted January 13, 1928. Decided December 10, 1928

Basic formulas prescribed for the determination for the future of the just, reasonable, and equitable divisions in the aggregate which shall accrue to respondents north and south of the gateways of Kansas City and St. Louis, Mo., and East St. Louis, Cairo, Gale, and Thebes, Ill., of the joint rates applying via said gateways on freight traffic between points in western trunk-line territory and points in the Southwest, and also of the western lines' share of the joint rates applying on freight traffic via said gateways between points in the Southwest and points in the territory east of the Illinois-Indiana State line and on and north of the Ohio River and the line formed by the Chesapeake & Ohio, Norfolk & Western, and Virginian railways between Cincinnati, Ohio, and Norfolk, Va.

Silas H. Strawn, Ralph M. Shaw, R. N. VanDoren, H. T. Dick, J. N. Davis, M. N. Joyce, K. F. Burgess, L. H.

Strasser, R. V. Fletcher, and Frank H. Towner for western trunk lines.

C. S. Burg, M. G. Roberts, H. H. Larimore, W. E. Davis, J. R. Turney, J. R. Bell, G. H. Muckley, T. D. Gresham, Elmer Westlake, F. E. Andrews, and R. S. Outlaw for southwestern lines.

Report of the Commission

EASTMAN, Commissioner:

This proceeding, instituted on our own motion, is an inquiry into the propriety of the divisions of the joint rates of the principal carriers in the territory covered by the western and mountain-Pacific groups, as defined in Increased Rates, 1920, 58 I. C. C. 220.

After extended hearings an agreement was reached by respondents, with the aid of our examiner, with respect to the divisions in the aggregate east and west of St. Paul, Minneapolis, and Minnesota Transfer, Minn., and of the Missouri River crossings, Kansas City, Mo., to Sioux City, Iowa, inclusive, of joint rates between Chicago and Peoria, Ill., St. Louis, Mo., and related points in western trunk-line territory, on the one hand, and points in Pacific coast territory, on the other. These revised divisions became effective July 1, 1925. In connection with this agreement, revised divisions, east and west of the Minnesota and Mis- [fol. 49a] souri River gateways mentioned, of joint rates between Chicago, Peoria, St. Louis, and related points in western trunk-line territory, on the one hand, and points in trans-Missouri territory, on the other, including, via Kansas City, points in Oklahoma on the Atchison, Topeka & Santa Fe,[1] Chicago, Rock Island & Pacific,[2] and Missouri Pacific, were also agreed upon and made effective on the same date, without having been made the subject of a hear-

[1] Hereinafter called the Santa Fe.

[2] Hereinafter called the Rock Island.

[3] Embracing the States of Iowa, Minnesota, Wisconsin, Illinois, North Dakota, South Dakota, Missouri, on and north of the main line of the Missouri Pacific between Kansas City and St. Louis, and the Upper Peninsula of Michigan.

ing. The readjustment of divisions under these settlements is yielding the lines east of the gateways amounts variously estimated of record, the maximum estimate being about $3,000,000 per year.

This report deals only with the divisions in the aggregate north and south of Kansas City and St. Louis, Mo., and East St. Louis, Cairo, Gale, and Thebes, Ill., respectively, of joint rates between points in western trunk-line territory generally east of the Missouri River [3] and points in the Southwest.[4]

Our order of investigation included divisions via Mississippi River crossings south of Cairo, but no question is presented with respect thereto at this time. Divisions on traffic to and from points in western Louisiana within the switching limits of New Orleans, La., and on traffic via Kansas City to and from points in Oklahoma on the Santa Fe, the Rock Island, and the Missouri Pacific, covered by the agreement as to trans-Missouri divisions, are likewise eliminated from present consideration. The divisions under consideration relate not only to traffic having origin and destination in the territories mentioned, but also include divisions of the western lines' portions of the joint rates on traffic moving between points in the Southwest and points in territory east of the Illinois-Indiana State line and on and north of the Ohio River and the line formed by the Chesapeake & Ohio, Norfolk & Western, and Virginian between Cincinnati, Ohio, and Norfolk, Va., including New England and the Lower Peninsula of Michigan.

For convenience the western trunk lines, actively seeking increases in their divisions, will be referred to as complainants, and the southwestern lines, in the main seeking merely to hold what they have, will be spoken of as defendants. Complainants [5] are principally the important

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[3] Embracing the States of Texas, Arkansas, Oklahoma, Louisiana, west of the Mississippi River, and Missouri, south of the main line of the Missouri Pacific between Kansas City and St. Louis.

[4] Chicago & Alton; Chicago & North Western; Chicago, Burlington & Quincy; Chicago Great Western; Chicago, Milwaukee & St. Paul; Chicago, St. Paul, Minneapolis &

lines in western trunk-line territory that have little or no [fol. 49b] trackage in the Southwest, and defendants [6] are principally the important lines in the Southwest that have little or no trackage in western trunk-line territory. The Santa Fe, operating important lines in both territories, chooses to regard itself for the purposes of this proceeding as a southwestern line. The Rock Island, however, likewise having important lines in both territories, apparently is neutral, although when the divisions to and from the Pacific coast territory were considered it aligned itself with the western trunk lines.

Complainants and defendants alike admit that the divisions in question conform to no systematic and consistent plan, but they are not particularly interested in the revision of individual divisions. What complainants seek and defendants oppose is primarily a finding that the former are entitled to substantially increased revenue in

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Omaha; Illinois Central; Minneapolis & St. Louis; Minneapolis, St. Paul & Sault Ste. Marie; Quincy, Omaha & Kansas City; Chicago & Eastern Illinois; and Wabash. The Minneapolis, St. Paul & Sault Ste. Marie, however, took no part in the proceeding.

[6] Atchison, Topeka & Santa Fe; Beaumont, Sour Lake & Western; Chicago, Rock Island & Gulf; Chicago, Rock Island & Pacific; Fort Worth & Denver City; Galveston, Harrisburg & San Antonio; Gulf, Colorado & Santa Fe; Houston & Shreveport; Houston & Texas Central; Houston East & West Texas; International-Great Northern; Kansas City, Mexico & Orient; Kansas City, Mexico & Orient of Texas; Kansas City Southern; Kansas, Oklahoma & Gulf; Kansas City, Oklahoma & Gulf of Texas; Louisiana Railway & Navigation; Louisiana Railway & Navigation of Texas; Louisiana Western; Missouri-Kansas-Texas; Missouri-Kansas-Texas of Texas; Missouri Pacific; Morgan's Louisiana & Texas; New Orleans, Texas & Mexico; Panhandle & Santa Fe; St. Louis, Brownsville & Mexico; St. Louis-San Francisco; St. Louis, San Francisco & Texas; San Antonio & Aransas Pass; Texas & Pacific; St. Louis Southwestern; St. Louis Southwestern of Texas; Texas & New Orleans; Texarkana & Fort Smith; and Vicksburg, Shreveport & Pacific.

the aggregate out of the traffic under consideration, and a fixation of divisions appropriate to that end.

The present divisional bases are so numerous and vary so widely that an attempt to describe them would unduly extend this report and serve no useful purpose. They are shown of record in great detail. There are so-called merchandise divisions, applying on traffic in general, and various special divisions for a number of commodities, of which lumber and oil are by far the most important. By oil we mean petroleum and its products. Most of the bases were established during the period from 1892 to 1896, inclusive, but the divisions on oil from Oklahoma via Kansas City are the result of arbitration as late as 1916. The bases generally apply between large groups of points. Just how they were arrived at is not disclosed and probably is not now known. No doubt they were the result of bargain and trade and plainly they are not definitely related to any of the criteria which we must consider in determining just, reasonable, and equitable divisions.

In the aggregate these divisions yield the southwestern lines considerably more than they would receive under a mileage prorate. Complainants contend that the record justifies the use of such a prorate and, subject to certain exceptions noted below, they seek relief on that basis. The resulting increase in their revenues would probably amount to between $2,000,000 and $2,500,000 per year. They are willing that the southwestern lines should deduct their [fol. 49c] usual differentials before dividing the rates on traffic to and from Texas differential territory; and as to traffic via Kansas City to and from points in Oklahoma and southwestern Missouri on the Kansas City Southern, Missouri-Kansas-Texas, and St. Louis-San Francisco, they are willing to accept in lieu of a mileage prorate an increase in the merchandise divisions of 14 per cent, special divisions on particular commodities to remain unchanged. This would be in harmony with the increase granted them by the Santa Fe, the Rock Island, and the Missouri Pacific in connection with the trans-Missouri and transcontinental agreements of 1925. The 14 per cent increase would still yield the western trunk lines substantially less than they would get under a mileage prorate, but they are willing to forego that basis on this traffic in their desire not to interfere with the agreement made with the Oklahoma lines named.

Complainants are willing to eliminate from the case the divisions on lumber. The rates on lumber from the Southwest to destinations in Iowa, Minnesota, and other States were originally based on the Cairo, Gale, or Thebes combinations, and via those gateways were divided as made. The combinations on St. Louis and East St. Louis have generally been higher, but joint rates were provided via those gateways equal to the combinations on the lower crossings named. In the division of these joint rates the lines south of St. Louis and East St. Louis for years received 18 cents per 100 pounds, or 1 cent less than the corresponding locals, but later, when the St. Louis Southwestern extended its line into St. Louis, it demanded its local of 19 cents. A dispute immediately arose and in Rates on Lumber and Other Forest Products, 31 I. C. C. 673, we required the St. Louis Southwestern to accept 18 cents, the same as its competitors did Subsequently, the carriers themselves adopted 18 cents as the division of the joint rate to destinations in Illinois and Wisconsin. As modified by the subsequent general increases and reduction this basis still stands. To some extent, due to carrier competition, it has influenced the divisions via Kansas City. A mileage prorate on lumber would yield complainants some additional revenue, but the present basis produces results sufficiently close to be reasonably satisfactory to them. Complainants are also willing to eliminate the divisions on oil from Oklahoma via Kansas City, in view of the agreement with the Santa Fe, the Rock Island, and the Missouri Pacific above mentioned. Defendants are not willing that the divisions on lumber and oil be eliminated, either in whole or in part. They expect their divisions on these commodities to be increased if they suffer any reductions in the merchandise and general commodity divisions.

[fol. 49d] Two tests of the carload traffic involved were made, one [7] by complainants in the month of June, 1924, and the other [8] by defendants in the month of October of the

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[7] Embraces all carload traffic between points in the Southwest, not including points in Texas differential territory or on short lines, and points on the Chicago & Alton, Chicago & Eastern Illinois, Chicago & North Western, Chicago, Great

same year. There are no similiar data of record as to the less-than-carload traffic. More than two-thirds of the carload traffic is northbound. In the October test out of a total of 21,964 cars, 15,630 moved northbound and 6,334 southbound. This is accounted for by the predominance of the oil and lumber traffic, as is indicated by the following table:

	Ton-miles		Revenue	
	Amount	Per cent	Amount	Per cent
June test:[1]				
Lumber	41,012,592	18.6	$356,402.35	16.1
Oil	126,505,604	57.4	1,104,798.14	49.9
Other traffic	53,625,285	24.0	753,683.88	34.0
October test:				
Lumber	99,480,075	22.5	784,419.00	17.2
Oil	130,781,749	29.7	1,108,404.00	24.3
Other traffic	211,252,424	47.8	2,666,445.00	58.5
Combined:				
Lumber	140,492,667	21.2	1,140,821.35	16.8
Oil	257,287,353	38.9	2,213,202.14	32.7
Other traffic	264,277,709	39.9	3,420,128.88	50.5

Most of the oil moves from Oklahoma via Kansas City and much of the lumber from Louisiana via East St. Louis. The remainder of the carload traffic is mainly northbound mineral and agricultural products, and southbound mineral, agricultural, and industrial products. About two-thirds of the carload traffic moves via Kansas City and most of the

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Western, Chicago, Milwaukee & St. Paul, Chicago, St. Paul, Minneapolis & Omaha, Illinois Central, Minneapolis & St. Louis, and Wabash. It also includes traffic to and from points in official territory east of the Indiana-Illinois State line in which the carriers named participated.

[8]Embraces all carload traffic between points in the Southwest and points in western trunk-line territory, not including North Dakota and South Dakota, and also all carload traffic between points in the Southwest and points in official territory east of the Indiana-Illinois State line in which the western trunk lines participated. It includes traffic to and from points in Texas differential territory and movements of forest products from points on southwestern short lines.

[1]Excluding traffic to and from points in official territory east of Indiana-Illinois State line.

balance via East St. Louis, the proportion via Cairo, Gale, and Thebes being rather light. The following table shows the amount of the carload tonnage, the average hauls per ton and the number of ton-miles via the several gateways for the month of June, 1924, except as otherwise noted:

		Average haul		Ton-miles	
	Tons	North	South	North	South
June test:[a]		Miles	Miles		
Via Kansas City.	172,120	472	418	81,202,133	72,002,275
Via East St. Louis	81,780	274	508	22,427,320	41,555,117
Via Cairo, Gale, and Thebes....	6,204	290	251	1,796,229	1,560,407
Via all gateways.	200,104	405	443	105,425,683	115,107,799
October test:					
Via all gateways.	542,197	348	466	188,605,531	252,908,717

[fol. 49e] Of the traffic in the June test 76.8 per cent originated in, was destined to, or passed through Illinois. The corresponding figure in the October test was 66.9 per cent. Of the traffic in the June test, also, 36.7 per cent of the cars moved to and from points in official territory, the western trunk lines performing only an intermediate service. The corresponding figure in the October test was 13.5 per cent.

The traffic covered by both tests was analyzed in order to determine how the existing divisions compare with those which would result from the application of a mileage prorate basis. The following table summarizes these comparisons in the case of the June test, eliminating the traffic to and from points in official territory east of the Indiana-Illinois State line. In the first column the average hauls of complainants and defendants are shown; in the second, these hauls are stated in terms of percentage of total haul, these being the percentages which would be applied under a mileage prorate; in the third column, the actual percentages of revenue which complainants and defendants receive under existing divisions are shown; while in the last column, headed "Ratio," the revenues thus received are stated in terms of percentage of what would accrue, in each case, under a mileage prorate:

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[a]Excluding traffic to and from points in official territory east of the Indiana-Illinois State line.

	Average haul	Proportion of total haul	Revenue	Ratio
Lumber:	Miles	Per cent	Per cent	Per cent
Western trunk lines	317	38.40	35.68	92.9
Southwestern lines	508	61.60	64.32	104.4
Oil:				
Western trunk lines	447	52.90	50.00	94.5
Southwestern lines	398	47.10	50.00	106.2
Other carload freight:				
Western trunk lines	375	42.86	31.73	74.0
Southwestern lines	500	57.14	68.27	119.5
All carload freight:				
Western trunk lines	405	47.76	41.48	86.8
Southwestern lines	443	52.24	58.52	112.0

In the table which follows, the same information is shown for the October test after eliminating the traffic between official territory and the Southwest in which the western trunk lines participate only as intermediate carriers and also eliminating the traffic to and from points in Texas differential territory and lumber from points on short lines in the Southwest:

	Average haul	Proportion of total haul	Revenue	Ratio
Lumber:	Miles	Per cent	Per cent	Per cent
Western trunk lines	283	36.95	35.47	96.0
Southwestern lines	482	63.05	64.53	102.3
Oil:				
Western trunk lines	421	50.83	47.06	92.6
Southwestern lines	407	49.17	52 94	107.7
Other carload freight:				
Western trunk lines	315	42.56	32.65	76.7
Southwestern lines	425	57.44	67.35	117.3
All carload freight:				
Western trunk lines	346	44.74	37.48	83.8
Southwestern lines	428	55.26	62.52	113.1

[fol. 49f] These tables indicate that the divisions on the oil and lumber traffic are considerably more favorable to complainants than the divisions on other carload traffic. They also show that defendants are receiving, on the average from all of the traffic, divisions which exceed what they would obtain under a mileage prorate by from 12 to 13 per cent. This showing, however, must be considered in connection with the fact that complainants received divisions on the same traffic which were less than they would have received under a mileage prorate by from 13 to 16 per cent. The following table shows, upon the basis of each of the

tests, the percentage by which it would be necessary to increase the mileage of the southwestern lines in order to give them their existing divisions under a strict mileage prorate:

	June test	October test
	Per cent	Per cent
Lumber	12.4	6.8
Oil	12.3	16.4
Other carload freight	61.4	52.9
All carload freight	28.9	34.8

Stated differently, under the existing divisional bases and judged by a mileage prorate, a mile in southwestern territory is worth on the average from 129 to 135 per cent of a mile in western trunk-line territory. Nor does this fully indicate the relative advantage of the southwestern lines, for a mileage prorate is by no means a perfect method of dividing joint rates, even where transportation and other conditions do not differ materially. It results in the same ton-mile revenue for each participating carrier, regardless of the length of haul and of the principle that, other things being equal, ton-mile yields should decrease as distance increases. New England Divisions, 126 I. C. C. 579, 667. It is for this reason that rate prorates or block-mileage plans are often used in preference or that provision is made for minimum divisions of not less than 25 per cent, or some similar percentage. This may be illustrated by the results shown for the lumber traffic in the June test. There the divisional bases appear at first glance to be relatively favorable to the western trunk lines, since the southwestern lines received only 4.4 per cent more revenue than they would have received under a mileage prorate. However, the average hauls were 317 miles for complainants and 508 miles for defendants. Assuming transportation conditions to be the same in both territories and using the southwestern class scale as a measure, a rate prorate would have given complainants 43.7 per cent of the revenue and defendants, 56.3 [fol. 49g] per cent, whereas they actually received 35.7 and 64.3 per cent, respectively. The following table illustrates this point in greater detail:

June Test	Revenue	Mileage prorate	Rate prorate
	Per cent	Per cent	Per cent
Lumber:			
Western trunk lines	35.68	38.40	43.67
Southwestern lines	64.32	61.60	56.33
Oil:			
Western trunk lines	50.00	52.90	51.54
Southwestern lines	50.00	47.10	48.46
Other carload freight:			
Western trunk lines	31.73	42.86	46.62
Southwestern lines	68.27	57.14	53.37
All carload freight:			
Western trunk lines	41.48	47.76	49.00
Southwestern lines	58.52	52.24	50.91
October Test			
Lumber:			
Western trunk lines	35.47	36.95	43.32
Southwestern lines	64.53	63.05	56.68
Oil:			
Western trunk lines	47.06	50.83	50.46
Southwestern lines	52.94	49.17	49.54
Other carload freight:			
Western trunk lines	32.65	42.56	45.70
Southwestern lines	67.35	57.44	54.30
All carload freight:			
Western trunk lines	37.48	44.74	47.27
Southwestern lines	62.52	55.26	52.73

As has been stated, most of the present divisional bases were established more than 30 years ago. Assuming that they were just and reasonable when first established, complainants undertake to show that relative conditions have since that time changed very materially, to the great advantage of defendants. The latter, on the other hand, undertake to show that conditions are still much less favorable in the Southwest than in western trunk-line territory, and that this difference amply justifies the divisions which they now receive.

The proposed report of the examiner contained the following statement, to which no exceptions were filed:

During the last 30 years both western trunk-line territory and the Southwest have enjoyed a substantial increase in population, but the increase in the Southwest has been somewhat greater than in western trunk-line territory. Railroad mileage also has substantially increased in both territories, but the increase in the Southwest has been particularly pronounced. As an agricultural region the Southwest has had

a growth that has far surpassed that of western trunk-line territory. The development of the oil business in the Southwest is of outstanding importance and has no counterpart in western trunk-line territory. Industrial growth, however, has been of less consequence in the Southwest than in western trunk-line territory. These changed conditions have operated to change materially the relative positions of the two groups of carriers to the advantage of those serving the Southwest.

For purposes of more specific comparison, two groups of States may be used, the western trunk-line group including [fol. 49h] Illinois, Wisconsin, Iowa, Minnesota, and Missouri and the southwestern group including Texas, Louisiana, Arkansas, Oklahoma, Kansas, and Missouri. Both groups include Missouri, since it is divided in this proceeding between the two opposing territories. North Dakota and South Dakota are not included in the western trunk-line group, as these States were omitted in the exhibits, apparently because there is litle interchange of traffic on joint rates between them and the Southwest. Their inclusion would operate in the comparisons to the advantage of complainants. Kansas is included in the southwestern group, because much of the traffic from the southwestern States here involved passes through Kansas. The following table shows the increase in property and in railroad mileage for the two groups between certain periods:

Group	Increase in population		Increase in railroad mileage	
	1890-1920 Per cent	1900-1920 Per cent	1890-1920 Per cent	1900-1920 Per cent
Western trunk line.....	51.6	23.9	31.3	15.4
Western trunk line eliminating Illinois	42.6	18.2	36.1	17.1
Southwestern	74.2	38.5	76.5	49.3

It will be observed that while population has increased more rapidly in the southwestern group, so has railroad mileage, and that the disparity is greater in the latter case. The result has been that while the population per mile of railroad increased 7.3 per cent in the western trunk-line group between 1900 and 1920, it decreased 7 per cent in

the southwestern group. Population per square mile of area and per mile of railroad continued to be larger in the former group in 1920, as shown by the following table:

	Population per square mile		Population per mile of railroad	
	1900	1920	1900	1920
Western trunk line	44.2	54.7	344.9	370.1
Western trunk line eliminating Illinois	35.2	41.6	310.1	313.0
Southwestern	19.2	26.6	328.5	305.4

Population, however, is an imperfect index of railroad traffic, as small populations may under certain circumstances produce a large volume of traffic. The value of farm products in the western trunk-line group increased 170.1 per cent between 1909 and 1919, whereas the similar increase in the southwestern group was 222.6 per cent. Comparing 1909 and estimates for 1923, the increases were 51.6 and 124.2 per cent, respectively. The production per acre, however, is materially larger in western trunk-line territory than [fol. 49i] in the Southwest. Persons engaged in industry increased 44.3 per cent in the southwestern group eliminating Kansas, between 1904 and 1921, as compared with an increase of 36.3 per cent in the western trunk-line group, and the similar increases in the case of the value of manufactured products were 237.7 and 173.1 per cent, respectively. The supremacy of the western trunk-line group, however, was very marked, for in 1921 it had 1,258,261 persons engaged in industry and products valued at $7,454,140,000, whereas the corresponding figures for the southwestern group were 466,382 persons and $2,886,337,000. On the other hand there has been an immense increase in the production of oil in the Southwest. For example, in 1900 only 836,000 barrels of crude petroleum were produced in Texas, whereas the production in 1923 was 128,415,000 barrels. The similar figures for Oklahoma were 6,000 barrels in 1900 and 159,873,000 in 1923.

As we have already suggested, the above comparisons measure only imperfectly the extent to which changing conditions have improved the situation of defendants as compared with that of complainants. A better measure is afforded by the increase in density of traffic, although that test

also has its limitations. Unfortunately the record does not show the traffic densities which existed in the nineties when the present divisions were largely established. It does, however, show the change between 1916 and 1924. In this showing Class I carriers operating in both groups are used as the basis, and the comparison is made in two forms, one including the Santa Fe and the Rock Island in both groups and the other eliminating them from both. Some of the carriers, such as the two just mentioned and the Missouri Pacific, the Burlington, the Milwaukee, and the Illinois Central, extend beyond the boundaries of either group, and to this extent the comparisons lack strict accuracy; but they are informative as indicating the general trend. They are given in the following table in terms of ton-miles per mile of road:

	Southwestern group		Western trunk-line group	
	Ton-miles	Per cent of increase	Ton-miles	Per cent of increase
Including Santa Fe and Rock Island in both groups:				
Year 1916	785,212	.....	1,132,555	.....
Year 1924	981,233	24.9	1,240,176	9.5
Excluding Santa Fe and Rock Island in both groups:				
Year 1916	713,775	.....	1,197,675	.....
Year 1924	948,053	32.8	1,304,820	9.0

[fol. 49j] There can be little doubt but that traffic density has increased during the past 30 years in much greater ratio in the Southwest than in western trunk-line territory.

As aforesaid, however, defendants contend that despite the change which has taken place in recent years, transportation conditions are still sufficiently less favorable in the Southwest to justify amply the divisions which they receive. So far as physical characteristics are concerned, the proposed report contained the following summary to which no exceptions were filed:

The physical characteristics of the two territories are quite similar. The terrain in both is generally flat or rolling. The most broken country is that in the Ozark regions of southern Missouri and northwestern Arkansas. The Southwest is the more subject to floods, washouts and other incidents of wet weather, but western trunk-line territory

suffers the handicaps of more severe winters. Upon the whole, there is no great difference in operating conditions, except as results from the greater traffic density in western trunk-line territory.

As proof of the less favorable conditions in the Southwest much evidence was offered to show that the rates in that territory are on a materially higher level than the rates in the western trunk-line region. Particular emphasis was laid upon the class rates, which are much higher in the Southwest. In the following table are shown representative rates in that portion of Illinois where rates are subject to the western classification, established as a result of Illinois Classification, 56 I. C. C. 202, and increased under Intrastate Rates within Illinois, 60 I. C. C. 92; similar rates prescribed in certain portions of Minnesota and North Dakota in Fargo Commercial Club v. A. & W. Ry. Co., 98 I. C. C. 691, and similar rates recently prescribed in the Southwest in the general sotuhwestern revision, the rates being shown in this table in the above order:

	Class 1 Cents	Class 5 Cents	Class E Cents
50 miles	46	16	9
Do	49	18	9
Do	58	22	10
100 miles	54	19	11
Do	64	23	12
Do	79	30	14
150 miles	63.5	22	12.5
Do	79	28	14
Do	97	37	17
200 miles	72.5	25.5	14.5
Do	94	34	17
Do	109	41	19
250 miles	77.5	27	15.5
Do	108	39	19
Do	123	47	22
300 miles	82	28.5	16.5
Do	116	42	21
Do	133	51	23
350 miles	87	30.5	17.5
Do	129	47	23
Do	147	56	26

	Class 1 Cents	Class 5 Cents	Class E Cents
400 miles	91	32	18
Do	137	49	25
Do	157	60	27
450 miles	96.5	34	19.5
Do	147	53	26
Do	167	63	29
500 miles	100.5	35	20
Do	157	57	28
Do	174	66	30

The rates prescribed in the general southwestern revision for the so-called Kansas-Missouri territory, which is in part here included in the southwestern group, are about 7 per cent lower than those shown above for the Southwest [fol. 49k] proper. It should be stated, also, that the Illinois rates shown above have not been approved by us as maximum reasonable rates. The class rates in western trunk-line territory proper, of which the rates shown above which were prescribed in the Fargo case are illustrative, differ widely and are not now upon any consistent basis. They are under review in Ex parte 87 (Sub No. 1), Class Rates Within Western Trunk Line Territory, and the carriers are there proposing substantial increases.

It should also be said that our general class-rate investigations have made it clear that class rates within different territories are often not fairly comparable and that they afford very inaccurate measures of the differences in general rate level. This is so because of differences in the underlying theories upon which they have been constructed. In some territories class rates move carload traffic in considerable volume and are relatively low. This is particularly true of official territory, of which Illinois is really a part. The class rates in that State which are subject to the western classification have been designed to harmonize with these official-territory class rates, and the latter have also had a substantial influence upon the level of the class rates in western trunk-line territory. On the other hand, class rates in the Southwest have been chiefly used for the movement of less-than-carload traffic and are relatively high. Carload traffic in that territory has in the past moved very largely on commodity rates.

The level of commodity rates also appears to be materially higher in the Southwest than in western trunk-line territory. If the large number of comparisons submitted by defendants are typical, the southwestern level is much higher, the difference amounting to as much as 40 or 50 per cent. The force of the comparisons is impaired, however, by the fact that a considerable number of the rates shown are paper rates. Many of them apparently move large volumes of traffic in one territory and little, if any, in the other. The record does not afford any exact measure of the situation. Most of the southwestern commodity rates shown in the comparisons have been modified in the recent general southwestern revision, but it is not likely that the general level has been changed very materially.

Complainants call attention to the fact that in Oklahoma Corporation Commission v. A. & S. Ry. Co., 98 I. C. C. 183, we extended into western trunk-line territory the same scale of rates on cottonseed and related articles as had been prescribed between points in southwestern territory. They further cite Mason City Brick & Tile Co. v. Director General, 107 I. C. C. 702, and Southwestern Brick Cases, 107 I. C. C. 681, to show that the rates which we prescribed on brick in western trunk-line territory are only a little lower [fol. 491] than the rates which we prescribed on the same commodity in the Southwest. They might also have shown that in the various cement-rate cases we have prescribed scales of rates in the Southwest which are the same as those prescribed for the western portion of western trunk-line territory.

Complainants state that they would be willing to accept divisions based on a prorate of the local rates which actually apply to the traffic north and south of the gateways. They introduced an exhibit of 139 representative movements to show that such a prorate would reduce their divisions in 25 instances and increase them in 110. In many instances the local rates shown are class rates north of the gateway and commodity rates south thereof, and defendants criticize the exhibit on the ground that in such instances there is frequently no actual movement under these class rates. This appears to be true in some cases, but by no means in all.

Average freight operating revenues per ton-mile furnish another means of comparing the general level of freight

rates in the two territories. Using Class I carriers as the basis and including the Santa Fe and Rock Island in both groups, the average ton-mile revenue in 1924 was 13.26 mills in the Southwest and 11.295 mills in western trunk-line territory. Excluding these two roads in both groups, it was 13.33 mills in the former and 10.78 mills in the latter. Eliminating all the lines which extend beyond the groups, it was 13.51 mills in the southwestern and 10.35 mills in the western trunk-line group. Judged by these comparisons it appears that the general level of rates was somewhere in the neighborhood of 25 per cent higher in the Southwest than in western trunk-line territory. Average hauls in the same year, inculding the Santa Fe and the Rock Island in both groups, were 232 miles in the Southwest and 221 miles in Western trunk-line territory. Excluding these roads from both groups, they were 201 miles in the former and 204 miles in the latter. Using strictly group lines, they were 191 miles in the southwestern and 167 miles in the western trunk-line group. It is safe to conclude that there were no great differences in average hauls. As for the composition of the traffic in each group, the record contains no information, except that it shows that the average carload was somewhat greater in the western trunk-line group, thus indicating what might have been expected, in view of the coal and ore movements in that territory, that the western trunk lines move a somewhat greater proportion of heavy, low-grade traffic. This is a fact which should be considered in comparing average ton-mile revenues, since it would result, other things being equal, in somewhat higher ton-mile revenue in the Southwest.

[fol. 49m] Statistics comparing traffic densities, operating expenses, and financial conditions were prepared by respondents according to several different theories or methods, with differing results. All of them are open to some measure of criticism. Complainants use only the data of respondent carriers, although the divisions apply for the account of all, or practically all, carriers participating in the transportation. They thus eliminate from the western trunk-line group the Elgin, Joliet & Eastern, Lake Superior & Ishpeming, Duluth, South Shore & Atlantic, and Green Bay & Western. The traffic of these four carriers is peculiar, embracing but little business to and from the South-

west. The two first named are lines of heavy traffic density, particularly the Elgin, Joliet & Eastern; the two last named have only a light density. Complainants' data likewise exclude from the southwestern group the Fort Smith & Western, Louisiana & Arkansas, Midland Valley, Missouri & North Arkansas, Fort Worth & Rio Grande, San Antonio, Uvalde & Gulf, Trinity & Brazos Valley, and Wichita Valley, none of which is a respondent, and all of which are light-density lines. Defendants generally use data of all Class I carriers in the western district which serve either or both of the two groups, and thus include the above-named carriers. Complainants also exclude from their statistics for western trunk-line territory data of the Santa Fe and the Rock Island, both being respondents, and include them only in their showing for the Southwest, although these carriers have rather extensive operations in both territories. Defendants offer statistics with data of the Santa Fe and the Rock Island included in both groups and also with these lines excluded from both groups. Defendants and complainants both include the Missouri Pacific only in the southwestern group, although it operates to some extent in western trunk-line territory. Some of complainants' statistics cover only what may be called the strictly group lines, namely, those which have all or practically all their trackage in either one of the groups, and exclude altogether the Santa Fe, the North Western, the Burlington, the Milwaukee, the Rock Island, the Illinois Central, the Missouri Pacific, and the Wabash, all of which have operations outside of the groups, and all of which are large systems, handling much traffic. Exclusion of these lines leaves in the western trunkline group only the smaller and weaker lines, namely, the Chicago & Alton, Chicago & Eastern Illinois, Chicago Great Western, Chicago, St. Paul, Minneapolis & Omaha, Minneapolis & St. Louis, Minneapolis, St. Paul & Sault Ste. Marie, and Quincy, Omaha & Kansas City.

In 1924 the strictly western trunk lines had a traffic density only slightly higher than that of the strictly southwestern lines, the ton-miles of revenue freight per mile of road being 1,094,493 as compared with 934,583. In 1925 the re- [fol. 49n] spondent western trunk lines, excluding the Santa Fe, the Rock Island, and the Missouri Pacific, averaged 1,335,704 ton-miles per mile of road, whereas the re-

spondent southwestern lines, including those above named, averaged 1,065,663, the former figure being about 25 per cent greater than the latter.

A comparison which is probably more accurate may be obtained by examining densities according to geographical boundaries, rather than according to individual carriers. The following table, compiled from exhibits of record, shows the average traffic density for each of the two territories based on data for the years 1922, 1923, and 1924 of all Class I carriers in the western district which serve the two territories:

	Ton-miles per mile of line
Western trunk-line States:[1]	
Year 1922	1,163,494
Year 1923	1,331,339
Year 1924	1,253,399
Total or average	1,249,411
Southwestern States:	
Year 1922	704,544
Year 1923	809,927
Year 1924	892,086
Total or average	802,186

As may be seen, traffic density was over 50 per cent greater in the western trunk-line group than in the Southwest.

The above data give equal weight to the traffic density in each State. As a matter of fact the densities vary widely. In this connection the following table, also derived from exhibits of record, is enlightening. It shows the density for 1924 in each State embraced in the two groups, based on data on all Class I carriers operating in the western district and serving those States:

Western trunk-line States:	Density
Illinois	2,540,883
Iowa	972,721

[1] The figures include those for the St. Louis-Kansas City line of the Chicago, Rock Island & Pacific, although geographically that line is located in the Southwest as described for the purposes of this proceeding.

	Density
Michigan (Upper Peninsula)	703,893
Minnesota	1,171,066
Missouri (on and north of C., R. I. & P.)	1,443,788
North Dakota	649,424
South Dakota	391,390
Wisconsin	1,107,780
Southwestern States:	
Arkansas	1,043,253
Louisiana (west of Mississippi River)	913,058
Missouri (south of C., R. I. & P.)	1,093,265
Oklahoma	877,045
Texas	812,081

It will be seen that it is the density in Illinois which chiefly accounts for the difference between the two groups. But if the data are weighted according to the proportion of the traffic under consideration that moves from, to, or through [fol. 49o] each State the density is seen to have been considerably more than 50 per cent greater in western trunk-line territory than in the Southwest. The traffic to and from North Dakota and South Dakota is almost negligible and apparently there are but few joint rates between those States and the Southwest. On the other hand, between two-thirds and three-fourths of the traffic moves from, to, or through Illinois, although the haul in that State is relatively small in some instances. Much of this goes via East St. Louis, Cairo, Gale, or Thebes, largely avoiding all western trunk-line territory except Illinois. That which does not move via the gateways named moves via Kansas City and through Iowa and Missouri as well as Illinois. During the years 1922, 1923, and 1924, the traffic density in Illinois averaged more than three times as much, and that in Illinois, Iowa, and northern Missouri combined, more than twice as much, as that in the Southwest. The following table, which may be considered in connection with traffic in general moving between Fort Worth, Tex., on the one hand, and Chicago, Ill., Des Moines, Iowa, and Minneapolis, Minn., on the other, via Kansas City, shows north and south of the gateways for the years 1923 and 1924, combined, the average densities of the States traversed by certain representative routes, and also shows the percentage by which the densities north exceeded those south:

Between—	And—	East and north	West and south	Ton-miles per mile of road: North	Ton-miles per mile of road: South	Ratio[1] per cent
Chicago, Ill	Fort Worth, Tex.	C. & A.	Santa Fe System	2,119,055	954,600	222.0
Do	do	C. G. W.	do	1,755,203	954,600	183.9
Do	do	C., M. & St. P.	do	1,841,482	954,600	192.9
Do	do	C. & N. W.-C. G. W. (via Marshalltown).	do	1,620,553	954,600	169.8
Des Moines, Iowa	do	C. G. W.	do	1,382,134	954,600	144.8
Minneapolis, Minn.	do	do	do	1,190,170	954,600	124.7

[1] Of average density east of Kansas City to that west thereof.

Statistics above discussed, however, have shown that the general trend with respect to traffic density is more favorable to defendants than to complaints. At the argument it was stipulated that we might refer, in the decision of the case, to reports on file with us which had been received since the close of the hearings. Such reports make it possible to compare traffic densities for 1927, computed in the same way as those shown above for 1924:

	Ton-miles per mile of line	Per cent of increase
Western trunk-line States:		
Year 1924	1,253,399	.....
Year 1927	1,325,098	5.7
Southwestern States:		
Year 1924	892,086	....
Year 1927	996,541	11.7

[fol. 49p] The density in the western trun-line States in 1927 exceeded that in the southwestern States by 32.9 per cent, as compared with 40.5 per cent in 1924. Eliminating the Dakotas, the density was 1,498,497 in the western trunk-line group, or 50.4 per cent in excess of the density in the Southwest. Eliminating the Dakotas and also Illinois, it was 1,166,672, or 17 per cent in excess of the southwestern figure. In 1927 the State densities were as follows:

	Density
Western trunk-line States:	
Illinois	2,784,165
Iowa	1,016,773
Michigan (Upper Peninsula)	761,599
Minnesota	1,197,126
Missouri (on and north of C. R. I. & P.)	1,560,799
North Dakota	712,829
South Dakota	412,240
Wisconsin	1,158,585
Southwestern States:	
Arkansas	1,018,589
Louisiana (west of Mississippi River)	882,299
Missouri (south of C. R. I. & P.)	1,077,028
Oklahoma	973,685
Texas	1,013,335

Moreover, the significance of traffic density can easily be overemphasized. It is not shown that expense of operation by any means decreases in ratio to increase in traffic density. Indeed it is probable that the chief benefit of a heavy density is that overhead costs, such as return on investment, are lower per unit of traffic. Overhead, however, does increase as density increases, although much less rapidly as a general rule. The vital thing to ascertain here is obviously the relative cost of service in the two groups, and upon that matter traffic density throws only an indirect and not very illuminating light.

The table below shows the average freight operating expenses per ton-mile in 1924 of Class I carriers operating within the two groups:

	Average expenses Mills
Including Santa Fe and Rock Island in both groups:	
Western trunk lines	8.38
Southwestern lines	9.46
Excluding Santa Fe and Rock Island from both groups:	
Western trunk lines	8.07
Southwestern lines	9.43
Strictly western trunk lines	8.40
Strictly southwestern lines	9.69

Subject to the infirmities which have been pointed out above in connection with other group statistics, these figures indicate that it cost somewhere in the neighborhood of 15 per cent more per ton-mile to haul freight in the Southwest than in western trunk-line territory. Complainants and defendants both introduced considerable evidence to [fol. 49q] prove efficiency and economy in operation, and neither side contested the representations of the other upon this point. Operating expense, however, does not tell the whole story, for there are overhead charges to consider, such as taxes and return on investment, and it is with respect to such overhead that the carriers with the heavier traffic density have the advantage. Average freight revenues per ton-mile are from this point of view better criteria, and we have seen that they were somewhere in the neigh-

borhood of 25 per cent higher in the Southwest than in western trunk-line territory. But such revenues in turn may be partially misleading, for they may have provided a larger return on investment in the one case than in the other. A still better basis for comparison would obviously be the amounts needed in each case to cover operating expenses, taxes and other like charges, and a fair return on investment.

The following table shows for 1924 the book investment[9] in the two groups, the net railway operating income and its per cent on investment, the amount of such income which would have been necessary to produce a 5.75 per cent return, and the amount by which the actual income fell short of this return:

[9] Road and equipment, materials and supplies, and cash.

	Including Santa Fe and Rock Island in both groups		Excluding Santa Fe and Rock Island in both groups	
	Western trunk lines	Southwestern lines	Western trunk lines	Southwestern lines
Book investment	$4,886,282,428	$3,480,105,170	$3,593,117,173	$2,186,939,915
Net railway operating income	$173,499,840	$151,580,221	$118,960,151	$97,040,532
Per cent on investment	3.55	4.36	3.31	4.44
5.75 per cent return	$280,961,240	$200,106,047	$206,604,237	$125,749,045
Deficiency	$107,461,400	$48,525,826	$87,644,086	$28,708,513

The problem is to spread this deficiency between freight and passenger service on a basis fair for present purposes of comparison. The statistics show that the relation between freight and passenger revenues was about the same in both groups, but that the passenger operating ratio was slightly higher in the western trunk-line group than in the Southwest. We have, therefore, first apportioned to passenger revenues in the former group enough of the deficiency to make the passenger operating ratio the same as in the Southwest, and have then apportioned the remainder between the two services in the ratio of their revenues as thus modified. In the case of the southwestern group, we have apportioned the deficiency between the two services in the ratio of their revenues without such prior modification. The result is shown in the following table:

[fol. 49r]

	Including Santa Fe and Rock Island in both groups		Excluding Santa Fe and Rock Island in both groups	
	Western trunk lines	Southwestern lines	Western trunk lines	Southwestern lines
Freight operating revenue	$921,732,151	$664,005,734	$691,968,945	$434,242,528
Deficiency apportionment	$76,681,077	$37,025,205	$65,773,342	$25,464,451
Constructive freight revenue	$998,413,228	$701,030,939	$757,742,287	$459,706,979
Ton-miles (thousands)	81,685,850	50,078,509	64,177,915	32,570,514
Constructive revenue per ton-mile....mills	12.22	14.00	11.81	14.11
Excess in Southwest .....per cent	.....	14.6	.....	19.5
Year 1923:				
Constructive revenue per ton-mile, mills	12.08	14.67	11.61	14.88
Excess in Southwest .....per cent	.....	21.4	.....	28.2

The results for 1923 shown in this table were computed in the same manner as those for 1924. Confining the computations to the strictly group lines, it appears that in 1924 the constructive freight revenue per ton-mile was 12.01 mills in western trunk-line territory and 14.29 mills in the Southwest, an excess for the latter of 18.9 per cent. The effect of these figures is to indicate that the cost of service including a fair return on investment, was somewhere in the neighborhood of 20 per cent greater in the Southwest than in the western trunk-line group, based on averages of 1923 and 1924 operations, and somewhere in the neighborhood of 17 per cent greater based on 1924 operations.

These figures are, of course, open to the criticism that they are either based upon the operations of systems which extend in some instances beyond group boundaries or, in the case of the strictly group lines, upon an incomplete showing of group operations. However, there are reasons to believe that they are not unfair to defendants. In the first place, while both groups contain systems which extend beyond their western boundaries into territory with less favorable operating conditions, the western trunk-line group also contains systems, such as the Wabash and the Illinois Central, which extend beyond its eastern boundary into official territory with its more favorable operating conditions and, in the case of the Illinois Central, into the Mississippi Valley portion of southern territory. In the second place, in Revenues in Western District, 113 I. C. C. 1, 17, we said:

> It is evident that the book values of the southwestern region are on a much less conservative basis than those of the central western and northwestern regions, and that book value can not furnish a fair basis on which to compute the relative rates of return in these three regions.

In the third place, the computations are not confined to the interchange traffic but cover all traffic, and we have seen that there is evidence indicating that a somewhat larger proportion of low-grade heavy-loading traffic is carried by complainants than by defendants. Finally, the [fol. 49s] evidence indicates, as we have already pointed out, that the trend of changing conditions is more favorable to defendants than to complainants.

Relative financial conditions of the two groups of carriers are indicated by the following table showing net railway operating incomes stated in percentages of aggregate book investments:

Period	Including Santa Fe and Rock Island in both groups: Western trunk lines	Including Santa Fe and Rock Island in both groups: Southwestern lines	Excluding Santa Fe and Rock Island from both groups: Western trunk lines	Excluding Santa Fe and Rock Island from both groups: Southwestern lines	Strictly western trunk lines	Strictly southwestern lines
	Per cent	Per cent	Per cent	Per cent	Per cent	Per cent
Year 1916.....	5.74	4.82	5.57	4.03	.....	.....
Year 1917.....	4.94	5.19	4.68	4.92	.....	.....
Year 1921.....	2.96	3.98	2.14	3.25	.....	.....
Year 1922.....	3.42	3.51	3.16	3.12	.....	.....
Year 1923.....	3.73	3.87	3.47	3.53	.....	.....
Year 1924.....	3.55	4.36	3.31	4.44	2.23	4.81
Year 1925.....	3.90	4.55	3.59	4.43	.....	.....
Average ..	3.98	4.30	3.65	3.95	2.23	4.81

This table indicates both the fact that in the later years shown the advantage was with the southwestern group and the fact that the trend of earnings seems to favor that group. Similar rates of return for individual carriers, namely, the principal Chicago-St. Louis and Chicago-Kansas City lines and the prominent southwestern lines, were as follows in 1922 to 1925, inclusive:

	1922	1923	1924	1925
Western trunk line:	Per cent	Per cent	Per cent	Per cent
Chicago & Alton.....	1.05	3.59	2.86	2.87
C. & E. I.....	3.03	3.82	1.62	2.37
C., B. & Q.....	4.52	4.29	4.80	4.60
C. G. W.....	.19	1.54	1.59	1.48
C., M. & St. P.....	1.90	2.81	2.57	2.27
Illinois Central.....	5.92	5.17	4.76	4.76
Wabash	1.77	3.84	3.85	4.84
Southwestern lines:				
A., T. & S. F.....	4.61	5.17	4.63	5.16
C., G. & S. F.....	6.05	5.67	9.04	7.55
H. & T. C.....	4.30	4.44	5.28	4.33
M. E. & W. T.....	2.26	1.75	1.91	7.21
I.-G. N.....	2.87	4.98	5.63	4.52
K. C., M. & O.....	Deficit	.22	Deficit	.24
K. C., M. & O. of Tex.....	Deficit	Deficit	2.41	.47
K. C. S.....	2.88	2.60	2.85	3.49
M-K-T.	4.72	3.78	4.29	4.96
M-K-T. of Tex.....	1.63	1.56	5.03	3.28
Mo. Pac.....	2.09	2.21	3.81	4.14
St. L.-S. F.....	3.99	4.72	5.05	5.23
St. L. S. W.....	7.05	7.44	4.97	4.81
St. L. S. W. of Tex.....	Deficit	Deficit	1.33	1.46
Texas & Pacific.....	2.72	3.84	4.15	4.11

Paragraph (5) of section 15 of the interstate commerce act requires us, in determining just, reasonable, and equitable divisions to give due consideration among other things—

[fol. 49t] to the efficiency with which the carriers concerned are operated, the amount of revenue required to pay their respective operating expenses, taxes, and a fair return on their railway property held for and used in the service of transportation, and the importance to the public of the transportation service of such carriers and also whether any particular participating carrier is an originating, intermediate, or delivering line, and any other fact or circumstance which would ordinarily, without regard to the mileage haul, entitle one carrier to a greater or less proportion than another carrier of the joint rate, fare or charge.

In reaching our conclusions we have taken all these matters into consideration to the extent that the record makes it possible to do so. Obviously it is impossible to apply any mathematical formula which will operate with precision, and it is necessary to be guided by general judgment after considering and weighing as well as we can the evidence before us. The greatest obstacle in securing a satisfactory record has been the difficulty of determining relative costs of service so far as the traffic in question is concerned. It has apparently not been practicable to segregate this traffic for this purpose from the other traffic in the two groups, nor indeed to separate group traffic wholly from operations beyond group boundaries. Summarizing the evidence, so far as salient facts are concerned, it is shown:

1. That the present divisions were established, for the most part, about 35 years ago and conform to no logical or consistent basis. They are considerably more favorable to complainants in the case of oil and lumber than in the case of other forms of traffic.

2. That transportation conditions have changed materially since most of the divisions were established, and that the change has benefited defendants more than it has complainants. The trend is distinctly in favor of defendants.

3. That transportation conditions are nevertheless more favorable in western trunk-line territory than in the South-

west, more particularly with reference to density of traffic. However, conditions vary in the different parts of western trunk-line territory, and appear on this record to be considerably more favorable in Illinois than in the other States included in that region. They grow continually less favorable from east to west.

4. That the difference in transportation conditions is reflected in the level of rates in the two territories. It is not possible from the record to determine just what the difference is in average levels, but it appears to be greater than the difference in average transportation conditions. This is particularly true of the class rates, which have apparently been constructed upon somewhat different theories in the two territories, and are in process of revision in western trunk-line territory.

5. That the cost of operation per ton-mile, including all expenses, charges, and a fair return on investment, in all [fol. 49u] probably does not average as much as 20 per cent higher in the southwestern than in the western trunk-line group.

6. That the financial condition of complainants is not on the whole as good as that of defendants.

The divisions here in issue are dealt with of record on a group basis. They are, in other words, the divisions "in the aggregate" north and south of the gateways named, and no question is raised with respect to the divisions of individual carriers. In our opinion the divisions in issue are not just, reasonable and equitable. Many of them are unjust to complainants, and some of them are unjust to defendants. To cure their defects, they must be readjusted upon a consistent basis which will as nearly as practicable reflect, in the light of all the facts of record, the differing conditions in the two territories. Such a readjustment will, we think, be accomplished if the joint rates are divided, south and north of the gateways, in proportion to assumed rates for the two hauls, the assumed rate for the distance covered by the haul south of the gateway to be the first-class rate for that distance under the present southwestern scale, and the assumed rate for the distance covered by the haul north of the gateway to be 80 per cent of

the first-class rate for that distance under the same scale in the case of traffic to or from points in Illinois and Wisconsin and 87 per cent in the case of traffic to or from other points in the western trunk-line group. Where differentials are added in either territory in making the rates, such differentials should be deducted before prorating and added to the divisions of the lines in the region in which they apply. In the case of traffic to or from points in official territory east of the Indiana-Illinois State line, the assumed rate used in determining complainants' proportion of the revenue accruing to the western lines should be 80 per cent of the first-class rate under the southwestern scale for the distance covered by complainants' haul minus 10 cents because of the absence of originating or delivering service.

It should be understood that in the construction of these bases for the readjustment of the divisions we have not attempted to differentiate closely between the various parts of western trunk-line territory. The evidence indicates that transportation conditions in Illinois are quite different from those in the remainder of the territory, and this difference is recognized in the bases. Wisconsin is included with Illinois because the traffic between the Southwest and Wisconsin very largely passes through Illinois. Complexity in the bases is undesirable, and in our judgment the differentiation provided for between two portions of western trunk-line territory will produce sufficiently accurate and reasonable results in the determination of the divisions of the joint rates in question. The assumed rates used in the [fol. 49v] prorate formulas are intended to reflect general differences in conditions, and are not to be regarded as a necessary measure of the class rates which should be maintained in the two territories or of the rates on any particular commodity. There may, for example, be reasons for a different distribution of the transportation burden among classes and commodities in one territory than in the other, and in the construction of such rates, also, a closer differentiation between various parts of the same territory may be desirable.

That the plan above indicated for the readjustment of the divisions would on the whole add to complainants' revenue is shown by the following table, derived from the June and October tests which are of record. In this table a column

under the heading "Proposed rate prorates" shows results under the 80 per cent basis and a column shows results under the 87 per cent basis.

	Average haul	Revenue	Mileage prorate	Proposed rate prorates	
				80 per cent	87 per cent
June Test					
Lumber:	Miles	Per cent	Per cent	Per cent	Per cent
Western trunk lines....	317	35.68	38.40	38.28	40.27
Southwestern lines.....	508	64.62	61.40	61.72	59.73
Oil:					
Western trunk lines....	447	50.00	52.90	45.97	48.01
Southwestern lines.....	395	50.00	47.10	54.03	51.99
Other carload freight:					
Western trunk lines....	375	31.73	42.86	41.13	43.14
Southwestern lines.....	500	68.27	57.14	58.87	56.86
All carload freight:					
Western trunk lines....	405	41.48	47.76	43.54	45.60
Southwestern lines.....	443	58.52	52.24	56.46	54.40
October Test					
Lumber:					
Western trunk lines....	283	35.47	36.95	37.94	40.00
Southwestern lines.....	482	64.53	63.05	62.06	60.00
Oil:					
Western trunk lines...	421	47.06	50.83	44.90	47.04
Southwestern lines.....	407	52.94	49.17	55.10	52.96
Other carload freight:					
Western trunk lines....	315	32.65	42.56	40.23	42.25
Southwestern lines.....	425	67.35	57.44	59.77	57.75
All carload freight:					
Western trunk lines....	346	37.48	44.74	41.76	43.83
Southwestern lines.....	428	62.52	55.26	58.24	56.17

It should be borne in mind that under the 80 per cent basis the assumed rates used south of the gateways are 25 per cent greater relatively than those used north thereof, and that under the 87 per cent basis they are 15 per cent greater.

After consideration of all the facts of record, therefore, we find that in the case of the joint rates applying on freight traffic via the gateways of Kansas City and St. Louis, Mo., and East St. Louis, Cairo, Gale, and Thebes, Ill., between points in the Southwest, as defined in this proceeding, and points in the States of Illinois and Wisconsin, subject to the [fol. 49w] exceptions noted below, the just, reasonable, and equitable divisions in the aggregate, south and north of said gateways, will for the future be determined by dividing said joint rates in proportion to assumed rates for the two hauls, the assumed rate for the distance covered by the

haul south of the gateway to be the first-class rate for that distance under the present southwestern scale and the assumed rate for the distance covered by the haul north of the gateway to be 80 per cent of the first-class rate for that distance under the same scale. We also find that in the case of the joint rates applying on freight traffic via the gateways named above between points in the Southwest, as defined in this proceeding, and points in the remainder of western trunk-line territory, as defined in this proceeding, subject to the exceptions noted below, the just, reasonable and equitable divisions in the aggregate, south and north of said gateways, will for the future be determined by dividing said joint rates in proportion to assumed rates for the two hauls, the assumed rate for the distance covered by the haul south of the gateway to be the first-class rate for that distance under the present southwestern scale and the assumed rate for the distance covered by the haul north of the gateway to be 87 per cent of the first-class rate for that distance under the same scale. We further find that in the case of joint rates applying on freight traffic via the gateways named above, between points in the Southwest, as defined in this proceeding, and points in the territory east of the Illinois-Indiana State line and on and north of the Ohio River and the line formed by the Chesapeake & Ohio, Norfolk & Western, and Virginian between Cincinnati, Ohio, and Norfolk, Va., subject to the exceptions noted below, the just, reasonable, and equitable divisions of the shares accruing to the western lines will for the future be determined by dividing said shares in proportion to assumed rates for the two hauls, the assumed rate for the distance covered by the haul south of the gateway to be the first-class rate for that distance under the present southwestern scale and the assumed rate for the distance covered by the haul of the western trunk lines north of the gateway to be 80 per cent of the first-class rate for that distance under the same scale, minus 10 cents. Where differentials are used in the construction of the joint rates, such differentials should be deducted before prorating and added to the divisions accruing to the carriers in the regions where they apply. There to and from points in western Louisiana within the switch- are excepted from the above finding divisions of joint rates

ing limits of New Orleans and also divisions of joint rates applying via Kansas City to and from points in Oklahoma on the Santa Fe, the Rock Island, and the Missouri Pacific which were included within the agreement as to trans-Missouri divisions which is described in the first part of this report.

[fol. 49x] Instead of applying the basic prorate formulas described in the above findings to individual joint rates and routes, both territories may be divided into groups and percentages determined for the division of all joint rates between particular groups by applying the appropriate prorate formula to fair average distances between such groups and the gateways named in the findings. In view of the desirability, for purposes of simplicity and convenience, of the use of such groups in working out the readjustment of the divisions, no order will for the present be entered, but respondents will be given 60 days from the date of service of this report to agree upon an adjustment substantially in accord with the above findings. Full reports should be made to us at the end of this period, indicating what negotiations have been had in this connection and what the results have been.

Woodlock, Commissioner, concurring:

It is with some hesitancy that I concur in this report. We are at one blow sweeping out of existence a multitude of heterogeneous division bases in western trunk-line and southwestern territories and replacing them by a rate-prorate basis, with, however, preservation of existing arbitraries, and with effect given to the difference in the general transportation costs prevailing in the respective territories. It is true that much can be said for the logic which supports this basis in the instant case, and little can be successfully urged against it. The new basis seems, moreover, in the light of the facts of record, likely to produce substantial justice between the two groups of carriers here concerned. Nevertheless, in a revision of this nature where an old order built up over many years is summarily swept away and a neat mathematical formula set in its place, it would appear to be natural, if not inevitable, that the new basis as applied to individual instances will produce results which can not

now reasonably be foreseen. I regard the plan set up in this report, therefore, as in the nature of an experiment and subject to prompt revision if and when the need therefor shall be made to appear following a reasonable period of trial.

BRAINERD, Commissioner, dissenting:

The examiner who heard the evidence in this case found in his report that no such convincing showing was made on the record as to justify the conclusion that the present divisions of the carriers before us, taken in the aggregate, are unreasonable. I am of the opinion that the examiner's conclusion is right. I therefore dissent from the majority's findings.

Existing divisions ought not of course to be disturbed unless we are fairly and reasonably able to find from the evidence as a fact that they are or will be unjust as between [fol. 49y] the carriers parties thereto. Such a determination is a necessary prerequisite to our power to set them aside and prescribe others in their stead. Section 15 (6).

The majority, after making allowances for deficiencies found to exist in the proof, reach the conclusion that upon all traffic, class and commodity taken as a whole, which is interchanged between these carriers in the territory herein considered, the southwestern lines receive too large and the western trunk lines too small a share of the freight revenue.

No facts are mentioned in the report to justify a finding that the present divisions as applied to individual joint rates, to joint rates on particular commodities or classes of commodities or to particular carriers, are unjust and no such finding is made. Nevertheless, the majority conclude that all existing divisions, considered in the aggregate, are and will be unjust because of the opinion that the aggregate result is unjust. But as said by the Supreme Court, "It can not be inferred that every existing division of every joint rate is unjust as between particular carriers, because the aggregate result of the movement of the traffic on joint rates appears to be unjust." U. S. v. Abilene & So. Ry. Co., 265 U. S. 274, 291.

The record shows that two-thirds of the carload traffic here involved moved during the test periods via the Kansas

City gateway; that oil and lumber represents about 60 per cent of the entire traffic interchanged; that the traffic density was over 50 per cent greater in western trunk-line territory than in the Southwest; and that existing divisions on all carload traffic interchanged through all gateways results in approximately 12 per cent greater revenue, in proportion to mileage haul, accruing to the southwestern carriers than to the carriers in western trunk-line territory. The level of class rates in the Southwest is much higher than in western trunk-line territory. It is shown that for a distance of 350 miles the average class-rate level of the Southwest is 174.7 per cent of that in western trunk-line territory similarly computed. The level of commodity rates is also much higher in the Southwest than in western trunk-line territory, and from comparisons submitted of record the examiner estimated this difference as amounting to 40 or 50 per cent. If this showing is at all accurate, it may be fairly concluded that an increase in rates in the western trunk-line territory of from 35 to 40 per cent is justified. But, however that may be, it seems clear that (making due allowance for the fact that more traffic moves on some rates than on others and that possibly no traffic moves on some of them) the division of revenue under existing agreements between the carriers north and south of the gateways no more than reflects the recognized differences in the transportation conditions in the two territories. Stating the question in an- [fol. 49z] other way, it would seem that if the western trunk-line carriers are receiving less revenue than they should receive on traffic interchanged with the southwestern lines, the solution lies not in shrinking the divisions of the southwestern lines, which would result from the majority's report, but in increasing the rates in western trunk-line territory.

The majority finding that the divisions prescribed for future application will be just and equitable is arrived at by an examination of the results reached by the use of a formula applied to the carload traffic interchanged during certain short test periods in 1924. No data were submitted for less-than-carload traffic. Such formula was not considered by the parties in interest at the hearing but its application is proposed here for the first time. Obviously the result of the application of such a formula applied to pres-

ent and to all additional future joint rates on traffic yet to move is incapable of accurate forecast. It is exceedingly speculative and uncertain. We know from experience that tests applied to comparatively short periods are many times found to be unreliable and to show results far different from what would be shown if applied to more extended periods. Moreover, it is difficult to see how satisfactory results can be obtained by excepting a portion of the traffic of important carriers from the application of the formula, the uniform application of which is said to be necessary in order to obtain an equitable division of the total joint revenue.

[fol. 50] APPENDIX 4 TO AMENDED PETITION

14745

INTERSTATE COMMERCE COMMISSION

No. 15234

In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories

[fol. 50a] No. 15234

In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories

Decided June 10, 1929

1. Minor modifications made of findings in prior report, 148 I. C. C. 457, with respect to the just, reasonable, and equitable divisions in the aggregate, north and south of certain gateways, of joint rates participated in by southwestern lines and western trunk lines, and order entered.
2. Reasons also given for denial of rehearing and reargument sought by southwestern lines.

Report of the Commission on Reconsideration

EASTMAN, Commissioner:

Our prior report herein, 148 I. C. C. 457, dealt with the divisions in the aggregate north and south of Kansas City

and St. Louis, Mo., and East St. Louis, Cairo, Gale, and Thebes, Ill., respectively, of joint rates between points in western trunk-line territory generally east of the Missouri River and points in the Southwest. A more precise definition of the rates and divisions involved is contained in that report. The southwestern respondents have now filed a petition of 145 pages with several appendices, seeking rehearing, reargument, and reconsideration. After careful study of this petition and of the answer filed by the western trunk-line respondents, we have denied rehearing and reargument, but have reopened the proceeding for reconsideration in order that our previous findings may be modified in certain particulars. The issues are so important, however, and they raise so many relatively new and difficult questions that we shall depart from our usual practice and explain, in this report, not only the reasons for the modifications, but also why rehearing and reargument have been denied.

In doing this we shall take up, one by one, and comment upon the more important points made in the petition:

[fol. 50b] 1. The southwestern lines state that they applied our findings to the traffic interchanged between the two groups in September, 1928, and found that the resulting divisions would decrease their revenue and increase that of the western trunk lines at the rate of more than $3,000,000 per year. In that month the test showed that the western trunk lines actually received $2,158,908, that under our findings they would have received $2,420,411, and that under a mileage prorate they would have received $2,501,834. We therefore gave them, according to this showing, 96.7 per cent of what they sought, which was a mileage prorate. On much traffic through St. Louis our basis would give the western trunk lines better than a mileage prorate. It is urged that we could not have intended results such as these, and that the near approach in general to a mileage prorate and the exceeding of that basis in particular instances are proof that we went beyond our intentions. Permission is sought to make this test a part of the record upon further hearing, together with an analysis of its results.

Comment.—The significance attached to this test is based upon a misapprehension. It was not our purpose to compromise between the claims of the two groups of carriers, but to establish a basis of divisions in line with the evi-

dence, whatever the revenue results might prove to be. It is true that we thought we were giving the western trunk lines less than they sought, and the test indicates that this supposition was correct; but this was a wholly incidental result. That the new basis might in some instances give more than a mileage prorate was recognized. The faults of such a prorate were pointed out on pages 463-464 of the report.

That our findings may decrease the revenue of the southwestern lines more than $3,000,000 per year, as they claim; is therefore not in itself of probative force. Incidentally, this amount is much less than 1 per cent of their total freight operating revenue. Incidentally, also, it is not certain that the test of September, 1928, is representative. It indicates a relatively larger increase for the western trunk lines than is indicated by the traffic figures of record. Those figures were for the months of June and October, 1924. We prescribed two divisional bases for the traffic between the Southwest and western trunk-line territory. One was for traffic to and from points in Illinois and Wisconsin, and the other for traffic to and from other points in western trunk-line territory. It was impossible to determine from the facts of record their net revenue effect, but if the Illinois-Wisconsin basis had been applied to all of the traffic, the June, 1924, figures indicated that it would have given the western trunk lines 91.2 per cent of a mileage prorate, whereas the other basis if similarly applied would [fol. 50c] have given them 95.5 per cent. The net result would have been a percentage somewhere between the two and nearer the former than the latter. The October, 1924, figures indicated corresponding percentages of 93.3 and 97.9 per cent. However, for the reasons given above, it is not important whether the September, 1928, test was or was not representative.

2. The southwestern trunk lines show that our findings would in a considerable number of instances, more particularly via the Mississippi River gateways, give the western trunk lines divisions in excess of their corresponding local rates. This is offered as proof positive that our basis is wrong.

Comment.—That our findings might in some instances produce such results was realized, but the fact was not

deemed of controlling importance. The findings were based chiefly on relative transportation conditions in the two territories. It is well known, as we have pointed out in numerous decisions, that differences in the level of corresponding local rates within particular territories very often do not accord with actual differences in transportation conditions. The transportation burden in different territories is quite differently distributed among commodities and between classes and commodities. The local rates on the same article may be relatively high in one territory and relatively low in another, and this is notably true of class rates. Class rates and certain commodity rates in both official and western trunk line territories are now in process of revision, and no doubt revision of other commodity rates will follow. Existing rates may be changed materially, and yet there may prove to be reason for continuing in those revisions a different distribution of the transportation burden than prevails in the Southwest. Superficially it would seem that divisions should never be higher than corresponding local rates, but this does not necessarily follow. The important thing here is to establish a just, reasonable, and equitable basis of divisions. That done, it is immaterial how it happens in particular instances to compare with unrevised or even revised local rates.

3. The petition criticizes our use of a rate prorate formula based on assumed first-class rates in western trunk-line territory which do not now and may never exist, whereas actual first-class rates are used in the Southwest. The thought is expressed that before employing a rate prorate we ought to await the revision of class rates in western trunk-line territory and use in the formula the actual rates so fixed.

Comment.—This criticism rests upon a misunderstanding of what we did. Our formula was merely a method of adjusting the divisions to what we believed, upon the evidence, to be a fair approximation of the difference in conditions in the two territories. The southwestern scale furnished a convenient means of doing this, using 100 per cent of the scale in the Southwest and 80 and 87.5 per cent in the [fol. 50d] two parts of western trunk-line territory. Another scale with a similar progression, such as the southeastern, could have been used with substantially the same

results. The southwestern scale seemed more appropriate, since it forms the basis of the class rates and many of the commodity rates not only within the Southwest but between the two territories. The class rates which may eventually be fixed in western trunk-line territory in the pending investigation might not serve the purpose as well, if used in a prorate formula with the southwestern rates. This is so, as indicated in our prior report at page 479, because the class rates in western trunk-line territory hereafter to be prescribed may possibly be designed to perform a somewhat different function than the class rates in the Southwest.

Incidentally it is suggested in the petition that in the use in our rate prorate formula of assumed rates in western trunk-line territory we went outside of the record in disregard of U. S. v. Abilene & So. Ry. Co., 265 U. S. 274, inasmuch as these assumed rates were not introduced in evidence. This suggestion carries the doctrine of the case cited to absurd lengths. The southwestern scale was in evidence, and the assumed scales were percentages thereof used merely as parts of the mechanism for dividing the joint rates in the proportions warranted by the facts of record.

4. Reference is made in the petition to the class scale recommended for official territory in the report proposed by the examiner in No. 15879, Eastern Class Rate Investigation. It is shown that this scale averages about 20 per cent lower than 80 per cent of the southwestern scale, and is to apply in Illinois. It is further shown that in U. S. War Department v. Abilene & S. Ry. Co., 151 I. C. C. 91, hereinafter called the B. & O.-Barge Line Divisions case, we used this proposed scale in a rate prorate formula for determining the divisions of barge-rail rates to be received by the Baltimore & Ohio, including its lines in Illinois. This is said to be inconsistent with our use of 80 per cent of the southwestern scale for determining the divisions of the western trunk lines on traffic to and from points in Illinois.

Comment.—Since the petition herein was filed, a report on reconsideration has been issued in the B. & O.-Barge Line Divisions case, 155 I. C. C. 343, decided April 13, 1929. In that report the findings in the prior report were substantially modified, and the rate-prorate formula abandoned for the time being. The change was made in part because

we found merit in the contention of the Baltimore & Ohio, upon petition for rehearing, that the record did not contain adequate evidence in regard to relative transportation conditions in central and southern territories. That carrier stated, indeed, that if rehearing were granted, it was prepared to show that average operating revenues and ex- [fol. 50e] penses per ton-mile and per car-mile, length of haul and composition of traffic considered, are not substantially different in central and southern territories. The modified findings prescribed a temporary basis of divisions, without prejudice to any conclusions that might be reached upon rehearing, if a further hearing were desired by either party.

Furthermore, in the barge-line case cited we were dealing with a rail line operating wholly in official territory. Here we are dealing, north of the gateways, not with official territory lines but with western trunk lines. And in the case of the 80 per cent basis used on traffic to and from points in Illinois and Wisconsin, the hauls are by no means confined to Illinois but are to a considerable extent through territory west of the Mississippi River or in Wisconsin. This is particularly true of the traffic moving through the Kansas City gateway, which is the point of largest interchange.

5. It is argued that the use of the southwestern scale in the rate-prorate formula works injustice to the carrier which has the longer portion of the joint haul. Here the southwestern lines generally have the longer haul. This injustice arises, it is contended, out of the fact that the southwestern scale, like most of the scales which we have prescribed, decreases too rapidly with increasing distance, thus penalizing the longer hauls in relation to cost of service. It is urged that after deducting the terminal allowance a scale should progress uniformly with distance, upon the ground that the cost per mile of line haul is the same way for both long and short hauls. The petition shows that the western trunk lines advanced this same theory of scale construction in their briefs in No. 17000, Part 2, Western Trunk Line Class Rates.

Comment.—In this proceeding the western trunk lines attempted to introduce in evidence the class rates which they were proposing in No. 17000, Part 2. Upon objection of the

southwestern lines these rates were excluded. In their petition the latter now rely in part upon briefs supporting the very rates which they were successful in keeping out of the record. The theory advanced with respect to the proper construction of rate scales is interesting but as yet it is unproved, and the petition contains no offer of proof. However, let us assume that this theory is sound. Certainly the scales which we have prescribed, and indeed rates in general, including those between the Southwest and western trunk-line territory, do not conform to that theory. Under such circumstances we think that it is fair to divide the rates in a manner corresponding to their construction, giving less per mile, other things being equal, to the lines which have the longer portions of the joint hauls.

Incidentally it is suggested in the petition that a prorate based on first-class rates can not appropriately be used for [fol. 50f] traffic the bulk of which does not move on class rates but largely on commodity rates. As has already been explained, our rate-prorate formula was adopted as a mechanism for dividing the joint rates in the proportions which we found justified by the facts of record. In our opinion it is an appropriate mechanism for that purpose. The southwestern scale now forms the basis within the Southwest and also interritorially, not only for class rates but also for many commodity rates. The proceeding has to do with the divisions in the aggregate north and south of the gateways between the two groups of carriers. It is impracticable to deal with such aggregate divisions except upon the basis of average conditions, and the case was so tried by both groups. No carrier sought special treatment for itself, nor was any effort made to show that special divisional bases are required by the transportation conditions surrounding particular kinds of traffic.

6. It is urged that in our findings we are influenced by the age of many of the existing divisional bases, although no presumption that they are wrong can properly arise from their age.

Comment.—We did not consider age alone as evidence of error in the divivisions, but it was deemed a fact which might properly be given some weight in connection with the further fact that the trend of conditions in recent years has been more favorable to the southwestern lines than to

the western trunk lines. In this connection the test of our findings made by the southwestern lines in September, 1928, is of some significance. The record indicates that the divisions of most recent origin are, broadly speaking, those on lumber and oil. According to the test, our findings would increase the revenue of the southwestern lines on oil about 4.8 per cent and decrease their revenue on lumber only about 4.6 per cent, whereas the decrease on other carload traffic would be about 12.2 per cent.

7. It is urged that we were in error in finding that the trend of conditions in recent years has favored the southwestern lines, that our comparisons were of the years 1916 and 1924, and that if other years had been selected the result would have been different.

Comment.—The statistics in question related to traffic densities, and we used the earliest and latest figures available in the exhibits. Comparisons of other years, as set forth in the petition, lead to a similar conclusion, although the differences are less pronounced. That there has in recent years been relatively greater improvement in transportation conditions in the Southwest than in western trunk-line territory admits of no doubt, and a trend in this direction is definitely shown of record, as indicated in detail in our prior report.

8. The point is made that even if the trend does favor the southwestern lines, that fact is of no significance if present differences in transportation conditions justify the divisions.

[fol. 50g] Comment.—That present conditions, as disclosed of record, do not justify the divisions was made clear in our prior report. The facts as to the change of conditions since the time when many of the divisions were established are corroborative evidence indicating the reasons for this situation.

9. It is contended that we gave far too little weight to relative traffic densities in the two territories, and our statement that the "chief benefit of heavy density is that overhead costs, such as return on investment, are lower per unit of traffic" is criticized at considerable length. Among other things, we are criticized for calling return on investment an "overhead cost."

Comment.—The technical accuracy of our inclusion of return on investment among "overhead costs" is of little consequence. It it something that the traffic is called upon to provide, whether or not it is strictly a "cost." Our general statement, at page 473 of the prior report, in regard to the bearing of traffic density upon costs or burden was, we think, reasonably accurate. But we did not rely upon this. So far as traffic density has an effect upon cost or burden of service, that effect must be reflected in the statistics showing results of operation, and it was upon such statistics that we relied in the last anlysis in the case of such costs.

10. It is urged that distance is a much better measure of divisions than a rate prorate, and that if "conditions in each territory are the same, a mileage prorate is not improper."

Comment.—This is a matter which was fully covered in our prior report at pages 463-464.

11. It is alleged that we went outside of the record in our consideration of traffic densities in 1927, and that the stipulation that we might consider information on file with the commission related to annual reports only.

Comment.—The data referred to are incorporated in special reports now secured annually by our Bureau of Statistics. We believe that the stipulation was broad enough to cover these reports. However, this evidence was merely corroborative of conclusions drawn from other evidence which is admittedly of record, and the 1927 showing was in no way essential to our findings. Moreover, there is no allegation in the petition that these 1927 figures were inaccurate.

12. The southwestern lines contend that relative cost of service in the two groups is not the only thing to be considered in fixing divisions, nor even a "vital factor," and that the act specifies many other things which must be considered.

Comment.—Relative cost of service is clearly a vital factor. Section 15(6) of the interstate commerce act speci- [fol. 50h] fies as matters to be considered the "amount of revenue required to pay their respective operating expenses, taxes, and a fair return on their railway property held for and used in the service of transportation" and

"whether any particular participating carrier is an originating, intermediate, or delivering line," and these plainly are matters affecting cost of service. There are other matters to be considered, such as the "efficiency with which the carriers concerned are operated" and the "importance to the public of the transportation service of such carriers," but all of these we took into consideration after summarizing the pertinent evidence.

13. It is pointed out in the petition that in the case of traffic moving through western trunk-line territory, where the lines in that territory act merely as a bridge between the southwestern and official territory lines, we used the 80 per cent factor for the western trunk lines, minus 10 cents because of the absence of originating or delivering service. It is further pointed out that in the B. & O.-Barge Line Divisions case, 151 I. C. C. 91, we went a step further, and in applying a first-class rate prorate formula deducted 15 cents for terminal service from the factor of each originating and delivering line and 30 cents from the factor of each intermediate line. It is argued that we should do the same here.

Comment.—As has already been indicated, the findings in the case cited have recently been modified. Moreover, since that report was issued it has been brought to our attention that if allowance such as was therein attempted is to be made for terminal expense, a further refinement in the process should be made to insure mathematical accuracy. If this refinement were made, the division percentages would be determined by taking the first-class through rate, deducting 30 cents for terminal service, dividing the balance in accordance with the formula used in the barge-line case, and then adding back 15 cents both to the share thus determined for the originating line and to that determined for the delivering line. The divisions of the first class rate so finally ascertained would then be reduced to percentages, and these applied to all other rates between the same points. There is merit, we believe, in this suggestion. Tests show, however, that such a formula would operate to the advantage of the lines having the shorter hauls, as compared with the formula adopted in our prior report herein. If the substitution were made, therefore,

the western trunk lines would benefit, because in general they are the short-haul carriers on traffic interchanged with the southwestern lines.

Considering all the facts of record, we think that the basis prescribed in our prior report, with the minor modifications noted below, will sufficiently approximate justice, and that there is no necessity for introducing further complexities, which, in net result, would operate to the advan- [fol. 50i] tage of the western trunk lines. We believe that the southwestern lines are right, however, in their contention that 15 cents, instead of 10 cents, should be deducted from the factor of the western trunk lines when they act as bridge carriers. Our findings will be modified accordingly.

14. The petition criticizes the conclusion reached on page 475 of our report that the "cost of service, including a fair return on investment, was somewhere in the neighborhood of 20 per cent greater in the Southwest than in the western trunk-line group, based on averages of 1923 and 1924 operations, and somewhere in the neighborhood of 17 per cent greater based on 1924 operations." The most important grounds of criticism seem to be that we used system operations in arriving at this conclusion, instead of relative costs of service on the interchange traffic in question, and that the system figures are misleading, in that they cover operations extending considerably beyond the groups in question. This is said to be true to a much greater extent of the western trunk-line figures than of the southwestern, inasmuch as the former included extensive operations of the Chicago, Burlington & Quincy, the Chicago & North Western, and the Chicago, Milwaukee & St. Paul in far-western territory where conditions are alleged to be much less favorable than in western trunk-line territory, whereas the latter included only the relatively minor operations in far-western territory of the Missouri Pacific, the St. Louis Southwestern, and the St. Louis-San Francisco.

Comment.—It will help in considering this criticism to indicate again, although more briefly than in the prior report, the basis for the conclusion which is attacked. So far as relative cost of service was concerned, we did not rest content with the statement of detached facts and a jump

from them to more or less arbitrary conclusions, but we attempted to bind these facts together through statistics fairly expressive of their net results. If transportation costs are less favorable in the Southwest than in western trunk-line territory, the fact must be reflected in actual operating expenses per ton-mile, giving due weight to length of haul and composition of traffic. But, as we pointed out, operating expenses do not tell the whole story, for they leave out of consideration what we termed "overhead costs." From this point of view operating revenues per ton-mile furnish a better criterion. But even these do not furnish the best test, for revenues may be lower than needed to earn a fair return. Therefore, we endeavored to adjust the figures so as to allow in each territory for any such deficiency, and then made our comparisons.

Average hauls differed very little, and the evidence also indicated that if no adjustment were made for differences in composition of traffic the comparison would at least not be unfair to the southwestern lines. The comparisons in- [fol. 50j] cluded (a) all of the lines operating in the Southwest and all operating in western trunk-line territory; (b) the same lines, excluding on both sides of the equation the Chicago, Rock Island & Pacific and the Atchison, Topeka & Santa Fe, which operate in both territories; and (c) the lines operating exclusively in each. In 1924 these comparisons indicated that transportation costs in the Southwest exceeded those in western trunk-line territory by the following per cents: (a) 14.6, (b) 19.5, (c) 18.9. In 1923 the per cent for (a) was 21.4 and for (b) it was 28.2. We did not have the figures for (c) in 1923. From these figures we drew the general conclusion, which is now criticized, that the cost of service in the Southwest was somewhere in the neighborhood of 20 per cent greater, based on averages of 1923 and 1924 operations, and somewhere in the neighborhood of 17 per cent greater, based on 1924 operations. The actual figure which we used in arriving at our divisional basis was about 22.5 per cent, for we used 25 per cent excess for the Southwest on the traffic to and from Illinois and Wisconsin points and 15 per cent for the remainder of the traffic to and from western trunk-line points, and the former appeared to be about three times the latter in volume. We realized that the statistics were open to criticism

in certain respects, and resolved doubts in favor of the carriers whose revenues would be reduced by our findings, i. e., the southwestern lines. The final result was not the product of the statistics alone, but was reached in the exercise of judgment after considering all of the pertinent evidence.

Reverting to the criticisms in the petition, we were compelled to use system statistics because the carriers were unable to segregate the interchange traffic and show the respective costs of service for that alone, and no offer of such segregated costs is made in the present petition. Moreover, these system figures were voluntarily presented by both groups of carriers as pertinent and important evidence. We were also obliged to use system statistics which spread over into other territories to some extent, because of the difficulty of obtaining representative statistics closely confined to the two groups. The western trunk lines did attempt such a segregation and we used the results, as shown above, as one of the checks upon our conclusions, but the southwestern lines objected to these figures as not sufficiently representative. In our report, at page 475, we said this:

These figures are, of course, open to the criticism that they are either based upon the operations of systems which extend in some instances beyond group boundaries or, in the case of the strictly group lines, upon an incomplete showing of group operations. However, there are reasons to believe that they are not unfair to defendants. In the first place, while both groups contain systems which extend beyond their western boundaries into territory with less favorable operating conditions, th. western trunk-line group also contains systems, such as the Wabash and the [fol. 50k] Illinois Central, which extend beyond its eastern boundary into official territory with its more favorable operating conditions and, in the case of the Illinois Central, into the Mississippi Valley portion of southern territory.

The southwestern lines now object to this statement upon the ground that we assumed without evidence that conditions are more favorable in official territory than in western trunk-line territory, and that the operations of the Illinois

Central in the Mississippi Valley are conducted under more favorable conditions than its operations in western trunk-line territory. Yet they now ask us to assume, without proffer of definite evidence, that conditions in far western territory are much less favorable than in western trunk-line territory. Merely as an indication that there may be doubt as to this assumption, we have extracted from the annual reports for 1924 the following statistics for roads which operate wholly or largely in far western territory:

Carrier	Per ton-mile		
	Operating revenues	Operating expenses	Average haul
	Mills	Mills	Mills
Great Northern	10.64	6.69	255.5
Northern Pacific	11.21	7.69	272.9
Western Pacific	9.53	7.51	374.2
Union Pacific	11.67	7.20	393.3

In the same year the averages which we found in our prior report for the western trunk-line group, including the Rock Island and the Santa Fe, were 11.29 mills per ton-mile for operating revenue, 8.38 mills for operating expense, and 221 miles for average haul. Excluding these carriers, they were 10.78 and 8.07 mills and 204 miles, respectively. We are not convinced from what has been presented that inclusion in the group statistics of certain operations in far western territory materially distorted the comparison to the disadvantage of the southwestern lines. Moreover, as above indicated, we resolved doubts in their favor, and our final conclusions were not dependent upon these statistics alone. And while the petition criticizes the statistics which were used, it makes no clear and definite offer of better evidence. In fact throughout the petition the criticism is destructive rather than constructive.

Upon further consideration of the evidence in the light of the petition, however, we are of the opinion that one further concession to the southwestern lines may well be made. In the case of the traffic to and from points in Illinois and Wisconsin or territory east of the Illinois-Indiana State line, some ground exists for differentiating [fol. 501] the traffic which moves through the Kansas City

gateway from that which moves through the St. Louis, Cairo, Gale, and Thebes gateways, since the hauls of the western trunk lines on the latter traffic are wholly in the territory east of the Mississippi River. For that reason the factor used in the rate prorate for hauls north of the latter gateways, may approximately be changed from 80 per cent of the southwestern scale to 75 per cent.

Accordingly the first sentence of the finding beginning at the bottom of page 479 of the prior report and extending over on page 480 is modified to read as follows:

After consideration of all the facts of record, therefore, we find that in the case of the joint rates applying on freight traffic via the gateways of Kansas City and St. Louis, Mo., and East St. Louis, Cairo, Gale, and Thebes, Ill., between points in the Southwest, as defined in this proceeding, and points in the States of Illinois and Wisconsin, subject to the exceptions noted below, the just, reasonable, and equitable divisions in the aggregate, south and north of said gateways, will for the future be determined by dividing said joint rates in proportion to assumed rates for the two hauls, the assumed rate for the distance covered by the haul south of the gateway to be the first-class rate for that distance under the present southwestern scale and the assumed rate for the distance covered by the haul north of the gateway to be 80 per cent, when the gateway is Kansas City, and 75 per cent, when the gateway is St. Louis, East St. Louis, Cairo, Gale, or Thebes, of the first-class rate for that distance under the same scale.

The third sentence of the same finding, at page 480 of the prior report, is also amended to read as follows:

We further find that in the case of joint rates applying on freight traffic via the gateways named above, between points in the Southwest, as defined in this proceeding, and points in the territory east of the Illinois-Indiana State line and on and north of the Ohio River and the line formed by the Chesapeake&Ohio, Norfolk&Western, and Virginian between Cincinnati, Ohio, and Norfolk, Va., subject to the exceptions noted below, the just, reasonable, and equitable divisions of the shares accruing to the western lines will for the future be determined by dividing said shares in

proportion to assumed rates for the two hauls, the assumed rates for the distance covered by the haul south of the gateway to be the first-class rate for that distance under the present southwestern scale and the assumed rates for the distance covered by the haul of the western trunk lines north of the gateway to be 80 per cent, when the gateway is Kansas City, and 75 per cent, when the gateway is St. Louis, East St. Louis, Cairo, Gale, or Thebes, of the first-class rate for that distance under the same scale, minus 15 cents.

In the case of both of the above amendments the italicized words indicate the changes.

An appropriate order will be entered.

[fol. 50m] Woodlock, Commissioner, dissenting:

Notwithstanding the persuasive logic of the majority report in its comments on the various points made by petitioners, I think we should have reopened the record as requested by the southwestern lines for admission of testimony bearing on facts since the closing of the record in 148 I. C. C. 457 on January 13, 1928.

It may be that the rate-prorate basis here imposed upon this large territory, calculated on the assumed ratio of transportation costs in the two contending regions, adequately reflects the facts. But it may not, and before giving final effect to so sweeping an order as this, it would in my judgment have been safer to be sure of our ground by making a record complete in both facts and time.

It is evident that questions of divisions between carriers, rail and rail, and rail and water, are to become a serious subject of controversy as a result of our recent decisions in the barge-line applications for through routes and joint rates. Are we going to deal with these controversies in the same manner and on the same principle as in this case? If we are—as now seems likely—we ought to be doubly sure of what we do here.

Brainerd, Commissioner, dissenting:

I am unable to concur in the majority's report on reconsideration for the reasons stated by me somewhat at length

in my dissenting opinion reported in 148 I. C. C. at pages 481 to 483, inclusive.

Chairman Lewis dissents.

[fol. 50n] Order

At a General Session of the Interstate Commerce Commission Held at Its Office, in Washington, D. C., on the 10th Day of June, A. D. 1929

No. 15234

In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories

It appearing, That by order dated October 8, 1923, the commission entered upon the above-entitled investigation and inquiry into the propriety of the divisions of the joint rates of the principal carriers in the territory covered by the western and mountain-Pacific groups, as defined in Increased Rates, 1920, 58 I. C. C. 220; that full investigation has been had of the divisions in the aggregate north and south of Kansas City and St. Louis, Mo., and East St. Louis, Cairo, Gale, and Thebes, Ill., respectively, of joint rates [1] between points in western trunk-line territory generally east of the Missouri River[2] and points in the Southwest,[3] including such aggregate divisions of the western

[1] Except joint rates via Mississippi River crossings south of Cairo, joint rates to and from points in western Louisiana within the switching limits of New Orleans, La., and joint rates via Kansas City to and from points in Oklahoma on the Atchison, Topeka & Santa Fe, the Chicago, Rock Island & Pacific, and the Missouri Pacific, none of which joint rates are covered by this order.

[2] Embracing the States of Iowa, Minnesota, Wisconsin, Illinois, North Dakota, South Dakota, Missouri, on and north of the main line of the Missouri Pacific between Kansas City and St. Louis, and the Upper Peninsula of Michigan.

[3] Embracing the States of Texas, Arkansas, Oklahoma, Louisiana west of the Mississippi River, and Missouri, south of the main line of the Missouri Pacific between Kansas City and St. Louis.

lines' portions of the joint rates on traffic moving between points in the Southwest and points in territory east of the Illinois-Indiana State line and on and north of the Ohio River and the line formed by the Chesapeake & Ohio, Norfolk & Western, and Virginian between Cincinnati, Ohio, and Norfolk, Va. including New England and the Lower Peninsula of Michigan; and that the commission, on December 10, 1928, made and filed a report, 148 I. C. C. 457, containing its findings of fact and conclusions thereon, and on the date hereof has made and filed a report on reconsideration amending said findings and conclusions in certain respects, which said reports are hereby referred to and made a part hereof;

[fol. 50o] It further appearing, That respondents herein which participate in joint rates the divisions of which are prescribed by this order are The Atchison, Topeka & Santa Fe Railway Company; The Beaumont, Sour Lake & Western Railway Company; The Chicago & Alton Railroad Company and W. W. Wheelock and W. G. Bierd, receivers; Chicago & Eastern Illinois Railway Company; Chicago & North Western Railway Company; Chicago, Burlington & Quincy Railroad Company; Chicago Great Western Railroad Company; Chicago, Milwaukee, St. Paul & Pacific Railroad Company; The Chicago, Rock Island & Gulf Railway Company; The Chicago, Rock Island & Pacific Railway Company; Chicago, St. Paul, Minneapolis & Omaha Railway Company; The Fort Worth & Denver City Railway Company; The Galveston, Harrisburg & San Antonio Railway Company; Gulf, Colorado & Santa Fe Railway Company; Houston & Shreveport Railroad Company; Houston & Texas Central Railroad Company; The Houston East & West Texas Railway Company; Illinois Central Railroad Company; International-Great Northern Railroad Company; The Kansas City, Mexico & Orient Railway Company; Kansas City, Mexico & Orient Railway Company of Texas; The Kansas City Southern Railway Company; Kansas, Oklahoma & Gulf Railway Company; Louisiana Railway & Navigation Company; Louisiana Western Railroad Company; The Minneapolis & St. Louis Railroad Company and W. H. Bremner, receiver; Minneapolis, St. Paul and Sault Ste. Marie Railway Company; Missouri-Kansas-Texas Railroad Company; Missouri-Kansas-Texas

Railroad Company of Texas; Missouri Pacific Railroad Company; Morgan's Louisiana & Texas Railroad & Steamship Company; New Orleans, Texas & Mexico Railway Company; Panhandle & Santa Fe Railway Company; Quincy, Omaha & Kansas City Railroad Company; The St. Louis, Brownsville & Mexico Railway Company; St. Louis-San Francisco Railway Company; St. Louis, San Francisco & Texas Railway Company; San Antonio & Aransas Pass Railway Company; St. Louis Southwestern Railway Company; St. Louis Southwestern Railway Company of Texas; Texas & New Orleans Railroad Company; Texarkana & Fort Smith Railway Company; The Texas & Pacific Railway Company; Vicksburg, Shreveport & Pacific Railway Company; Wabash Railway Company:

It is ordered, That of the joint rates for the transportation of property in interstate or foreign commerce via the gateways of Kansas City and St. Louis, Mo., and East St. Louis, Cairo, Gale, and Thebes, Ill., between points on the lines of any of the above-listed respondents in the Southwest, as above defined, and points on the lines of any of the above-listed respondents in the States of Illinois and [fol. 50p] Wisconsin, the just, reasonable, and equitable divisions in the aggregate, south and north of said gateways, shall on and after August 1, 1929, be determined, subject to the provisos noted below, by dividing said joint rates in proportion to assumed rates for the two hauls, the assumed rate for the distance covered by the haul south of the gateway to be the first-class rate for that distance under the present southwestern scale and the assumed rates for the distance covered by the haul north of the gateway to be 80 per cent, when the gateway is Kansas City, and 75 per cent, when the gateway is St. Louis, East St. Louis, Cairo, Gale, or Thebes, of the first-class rate for that distance under the same scale;

It is further ordered, That of the joint rates for the transportation of property in interstate or foreign commerce via the gateways named in the next preceding paragraph between points on the lines of any of the above-listed respondents in the Southwest, as above defined, and points on the lines of any of the above-listed respondents in the remainder of western trunk-line territory east of the Missouri River, as such territory is above defined, eliminat-

ing the States of Illinois and Wisconsin, the just, reasonable and equitable divisions in the aggregate, south and north of said gateways, shall on and after August 1, 1929, be determined, subject to the provisos noted below, by dividing said joint rates in proportion to assumed rates for the two hauls, the assumed rate for the distance covered by the haul south of the gateway to be the first-class rate for that distance under the present southwestern scale and the assumed rate for the distance covered by the haul north of the gateway to be 87 per cent of the first-class rate for that distance under the same scale.

It is further ordered, That of the joint rates for the transportation of property in interstate or foreign commerce via the gateways named in the second preceding paragraph between points on the lines of any of the above-listed respondents in the Southwest, as above defined, and points in the territory east of the Illinois-Indiana State line and on and north of the Ohio River and the line formed by the Chesapeake & Ohio, Norfolk & Western, and Virginian between Cincinnati, Ohio, and Norfolk, Va., the just, reasonable, and equitable divisions in the aggregate, south and north of said gateways, of the shares of said joint rates accruing to above-listed respondents participating therein shall be determined on and after August 1, 1929, subject to the provisos noted below, by dividing such shares in proportion to assumed rates for the two hauls, the assumed rate for the distance covered by the haul south of the gateway to be the first-class rate for that distance under the present southwestern scale and the assumed rate for the distance covered by the haul of western trunk-line re-
[fol. 50q] spondents north of the gateway to be 80 per cent, when the gateway is Kansas City, and 75 per cent, when the gateway is St. Louis, East St. Louis, Cairo, Gale, or Thebes, of the first-class rate for that distance under the same scale, minus 15 cents;

Provided, however, That where differentials are used in the construction of the joint rates, such differentials shall be deducted before prorating and added to the amounts determined by the prorating process and accruing to respondents in the regions where the differentials apply; and—

Provided, further, That instead of applying the basic prorate formulas prescribed in the above ordering paragraphs to individual joint rates and routes, both territories may be divided, if respondents so agree, into groups, and percentages determined for the division of all joint rates between particular groups by applying the appropriate prorate formula to fair average distances between such groups and the gateways named above; and that respondents for purposes of convenience and simplicity may deviate in other respects from the strict letter of the order if they so agree.

It is further ordered, That the above-listed respondents, according as they participate in the transportation, be, and they are hereby, notified and required to cease and desist, on and after August 1, 1929, and thereafter to abstain from asking, demanding, collecting, or receiving divisions of said joint rates upon other bases than those above prescribed.

And it is further ordered, That this order shall continue in force until the further order of the commission.

By the commission.

George B. McGinty, Secretary. (Seal.)

[fol. 51] APPENDIX NO. 5 TO AMENDED PETITION

Order

AT A GENERAL SESSION OF THE INTERSTATE COMMERCE COMMISSION, HELD AT ITS OFFICE, IN WASHINGTON, D. C., ON THE 25TH DAY OF JULY, A. D. 1929

No. 15234

In the Matter of Divisions of Freight Rates in Western and Mountain Pacific Territories

Good cause appearing therefor,

It is ordered, That the second paragraph of the commission's order of June 10, 1929, in this proceeding be, and it is hereby amended to read as follows:

It further appearing, That respondents herein which participate in joint rates the divisions of which are prescribed by this order are The Atchison, Topeka & Santa Fe Railway Company; The Beaumont, Sour Lake & Western Railway Company; The Chicago & Alton Railroad Company and W. W. Wheelock and W. G. Bierd, Receivers; Chicago & Eastern Illinois Railway Company; Chicago & North Western Railway Company; Chicago, Burlington & Quincy Railroad Company; Chicago Great Western Railroad Company; Chicago, Milwaukee, St. Paul & Pacific Railroad Company; The Chicago, Rock Island & Gulf Railway Company; The Chicago, Rock Island & Pacific Railway Company; Chicago, St. Paul, Minneapolis & Omaha Railway Company; The Fort Worth & Denver City Railway Company; The Galveston, Harrisburg & San Antonio Railway Company; The Gulf, Colorado & Santa Fe Railway Company; Houston & Shreveport Railroad Company; Houston & Texas Central Railroad Company; The Houston East & West Texas Railway Company; Illinois Central Railroad Company; International Great Northern Railroad Company; The Kansas City, Mexico & Orient Railway Company, Kansas City, Mexico & Orient Railway Company of Texas; The Kansas City Southern Railway Company; Kansas, Oklahoma & Gulf Railway Company; Louisiana Railway & Navigation Company; Louisiana Western Railroad Company; Chicago, Milwaukee, St. Paul & Pacific Company and W. H. Bremner, Receiver; Minneapolis, St. Paul and Sault Ste. Marie Railway Company; Missouri-Kansas-Texas Railroad Company; Missouri-Kansas-Texas Railroad Company of Texas; Missouri Pacific Railroad Company; Morgan's Louisiana & Texas Railroad & Steamship Company; New Orleans, Texas & Mexico Railway Company; Panhandle & Santa Fe Railway Company; Quincy, Omaha & Kansas City Railroad Company; The St. Louis, Brownsville & Mexico Railway Company; St. Louis-San Francisco Railway Company; St. Louis, San Francisco & Texas Railway Company; San Antonio & Aransas Pass Railway Company; St. Louis Southwestern Railway Company; St. Louis Southwestern Railway Company of Texas; Texas & New Orleans Railroad Company; The Texas & Pacific Railway Company; Vicksburg, Shreveport

& Pacific Railway Company; and Wabash Railway Company;

It is further ordered, That the effective date of said order be, and it is hereby, postponed from August 1, 1929, to October 1, 1929.

And it is further ordered, That in all other respects said order shall continue in force until the further order of the Commission.

By the Commission.

George B. McGinty, Secretary. (Seal.)

[File endorsement omitted.]

[fol. 52] In United States District Court

Order Designating Judges and Fixing Date of Hearing—Filed Sept. 20, 1929

The Beaumont, Sour Lake & Western Railway Company and others, petitioners in the above entitled cause, having presented to the undersigned judge their petition to enjoin, set aside, annul, and suspend certain orders set forth in said petition of the Interstate Commerce Commission made by the said commission, under the provisions of the act of Congress known as the Interstate Commerce Act, being Title 49, Sections 1 to 27, United States Code 1926, and particularly under the provisions of subdivision (6) of Section 15 of the said Interstate Commerce Act, and it appearing that the said Interstate Commerce Commission has entered its appearance, and that the said application or petition is one which requires, under the law, hearing and determination by three judges, one of whom shall be a circuit judge, the undersigned, after taking counsel with the presiding judge of the United States Circuit Court of Appeals for the Eighth Circuit, and being advised by him that the Honorable Archibald K. Gardner, one of the judges of the said Circuit Court, had been designated as the circuit judge to hear and determine said application, sitting with two other judges as required by law: It is therefore ordered that the hearing of said petition or ap-

plication of The Beaumont, Sour Lake & Western Railway Company and others be and the same is hereby set for hearing September 20th, 1929, at Kansas City, Missouri, and that such hearing be had before the Honorable Archibald K. Gardner, circuit judge, the Honorable Merrill E. Otis, district judge, and the undersigned, district judge.

Albert L. Reeves, District Judge.

[File endorsement omitted.]

[fol. 53] IN UNITED STATES DISTRICT COURT

MOTION RELATIVE TO ANSWER OF THE UNITED STATES—Filed Sept. 20, 1929

Now comes the United States of America, defendant in the above entitled case, and by its counsel moves the Court to permit the answer of the United States hereto filed to the petition herein, to be considered as and to constitute the answer of the United States to the amended petition herein filed.

William L. Vandeventer, United States Attorney. John Lord O'Brian, Assistant to the Attorney General. Elmer B. Collins, Special Assistant to the Attorney General.

[File endorsement omitted.]

IN UNITED STATES DISTRICT COURT

ORDER RELATIVE TO ANSWER OF THE UNITED STATES—Filed Sept. 20, 1929

Upon motion of counsel for United States of America, defendant in the above entitled case, it is hereby ordered that the answer of United States of America heretofore filed to the original petition in said case be, and it is hereby permitted to be, filed and considered as the answer of the United States to the amended bill of complaint filed by petitioners in said proceeding.

Albert L. Reeves, United States District Judge.

[File endorsement omitted.]

[fol. 54] IN UNITED STATES DISTRICT COURT

ORDER, SEPT. 20, 1929, PERMITTING WILLIAM W. WHEELOCK, ET AL., RECEIVERS, ET AL., TO FILE ANSWER—Filed Sept. 23, 1929

On motion of solicitors for William W. Wheelock and William G. Bierd, Receivers of The Chicago and Alton Railroad Company; Chicago and Eastern Illinois Railway Company; Chicago and North Western Railway Company; Chicago, Burlington and Quincy Railroad; Chicago Great Western Railroad Company; Chicago, St. Paul, Minneapolis and Omaha Railway Company; Illinois Central Railroad Company; W. H. Bremner, Receiver of Minneapolis & St. Louis Railroad Company; Minneapolis, St. Paul & Sault Ste. Marie Railway Company and Wabash Railway Company, intervening defendants, it is

Ordered, that said defendants may file instanter their answer to the amended petition filed herein.

Enter.

Albert L. Reeves, Judge.

Sept. 20, 1929.

[File endorsement omitted.]

IN UNITED STATES DISTRICT COURT

JOINT AND SEPARATE ANSWER OF WILLIAM W. WHEELOCK ET AL., RECEIVERS, ET AL.—Filed Sept. 20, 1929

Now comes William W. Wheelock and William G. Bierd, Receivers of The Chicago and Alton Railroad Company; Chicago and Eastern Illinois Railway Company; Chicago and North Western Railway Company; Chicago, Burlington and Quincy Railroad Company; Chicago Great Western Railroad Company; Chicago, St. Paul, Minneapolis and Omaha Railway Company; Illinois Central Railroad Com-[fol. 55] pany; W. H. Bremner, Receiver of Minneapolis & St. Louis Railroad Company; Minneapolis, St. Paul & Sault Ste. Marie Railway Company and Wabash Railway Company, Interveners, leave of Court having been first duly

granted, and now and at all times hereafter saving and reserving to themselves all and all manner of benefit and advantage of exception to the many errors and insufficiencies in petitioners' amended petition contained, for their joint and separate answer thereto or unto so much or such parts thereof as they are advised it is material for them to answer, answer and say:

I. These interveners admit, for the purpose of this suit, the allegations contained in Paragraphs I and II of the amended petition herein, except that they deny that the Interstate Commerce Commission erroneously included the Chicago, Milwaukee, St. Paul & Pacific Railroad Company in its order of June 10, 1929, and say that said Company was properly included in said order, since it is the successor to and was the purchaser at judicial sale, of the property of Chicago, Milwaukee & St. Paul Railway Company, which was named as a respondent in said Commission's order of October 8, 1923, entered in the same proceeding and attached to said amended petition as Appendix 1.

II. These interveners, answering Paragraphs numbered III and IV of the amended petition herein and the several subdivisions of those paragraphs, admit and allege that the Interstate Commerce Commission made and entered the order dated June 10, 1929, referred to in subdivision 8 of the amended petition and made a part thereof as "Exhibit 4", in a proceeding then pending before it, entitled "In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific territories, Docket 15234;" that said proceeding was instituted by the Commission upon its own motion by order dated October 8, 1923, referred to in subdivision 3 of said amended petition and attached thereto as Appendix 1, by which certain railroads, including the petitioners herein and these interveners, operating in the territories men- [fol. 56] tioned, were made respondents; that full hearings were had in said proceedings by the Commission, and that thereafter it made, entered and served upon all the parties to said proceeding the report of December 10, 1928, 148 I. C. C. 457, referred to in subdivision 6 of the amended petition herein and made a part thereof as Appendix 3, to which the Court is respectfully referred for information concerning the Commission's findings and the requirements

thereof; that following the service of the Commission's said report of December 10, 1928, the petitioners herein filed with the Interstate Commerce Commission a petition for rehearing, reargument and reconsideration; that pursuant to the prayer of said petition said proceeding was reopened for reconsideration, and that subsequently said Commission made and entered and served upon all the parties to said proceeding its report and order of June 10, 1929, referred to and made a part of the amended petition herein as Appendix 4, to which the Court is respectfully referred for information concerning the Commission's findings and the requirements of said order; that in said proceeding the parties thereto, including the petitioners herein and these interveners, were and each of them was accorded the full hearing provided for by the Interstate Commerce Act; that in said hearings a large volume of testimony and other evidence bearing upon the matters covered by said reports and orders was submitted to the Commission for consideration, including testimony and other evidence submitted on behalf of the petitioners herein through their counsel; that at said hearings and subsequently both orally and on briefs filed in said proceeding, all questions relating to said matters were fully argued and submitted to the Commission for determination on behalf of said parties by their respective counsel, including many of the particular questions raised by the petitioners in this suit. Whereupon, the Commission determined said matters and entered and served upon all the parties to said proceeding, including the petitioners herein and these interveners, its said reports and orders; that said reports and orders included the Commission's [fol. 57] findings of fact, decision, conclusions, orders and requirements in the premises, and that upon the evidence aforesaid and as shown in and by said reports the Commission made the findings and stated the conclusions upon which said orders are based.

III. These interveners further allege that the Commission's findings and conclusions in said reports are and each of them is, fully supported and justified by the evidence submitted in said proceeding as aforesaid; that in making said reports the Commission considered and weighed carefully, in the light of its own knowledge and experience, each fact, circumstance and condition called to its attention on

behalf of the petitioners by their respective counsel, including matters covered by the allegations in the petition herein.

IV. These interveners deny that in making and entering said orders of June 10, 1929, and July 25, 1929, the Commission acted arbitrarily or contrary to relevant testimony, or in excess of its authority or otherwise unlawfully, and denies that said orders are without evidence to support them, or that they are unlawful or invalid for any of the reasons set forth in the amended petition filed herein, or for any other reason, and deny further that the petitioners herein will suffer irreparable or other damage if said orders are not suspended or enjoined.

V. Except as herein expressly admitted, these interveners deny the truth of each and all of the allegations contained in the amended petition filed herein, in so far as they conflict either with the allegations herein or with the statements or conclusions of fact included in said reports and orders of the Interstate Commerce Commission.

All of which matters and things these interveners are ready to maintain and prove as this Honorable Court shall direct; and hereby pray that said amended petition be dismissed.

William W. Wheelock and William G. Bierd, Receivers of the Chicago and Alton Railroad Company; Chicago and Eastern Illinois Railway Company, [fol. 58] Chicago and Northwestern Railway Company, Chicago Burlington and Quincy Railroad Company, Chicago Great Western Railroad Company, Chicago, St. Paul, Minneapolis and Omaha Railway Company, Illinois Central Railroad Company, W. H. Bremner, Receiver of Minneapolis & St. Louis Railroad Company; Minneapolis, St. Paul & Sault Ste. Marie Railway Company, and Wabash Railway Company. Silas H. Strawn, K. L. Richmond, P. F. Gault, K. F. Burgess, Ralph M. Shaw, J. Carter Fort, G. M. Swanstrom, A. H. Lossow, L. H. Strasser, Frank H. Towner, Solicitors for said Parties.

Duly sworn to by J. A. Behrle. Jurat omitted in printing.

[fol. 59] [File endorsement omitted.]

Minute entry of argument and submission September 20, 1929, omitted in printing.

IN UNITED STATES DISTRICT COURT

ORDER RELATIVE TO ANSWER OF INTERSTATE COMMERCE COMMISSION—Filed Sept. 27, 1929

Upon motion to E. M. Reidy, counsel for the Interstate Commerce Commission, it is ordered that the answer of the Interstate Commerce Commission to the original petition be made its answer to the amended petition, and that numbers of certain subdivisions of the petition referred to in the answer of the Interstate Commerce Commission be changed in said answer, as follows:

In Paragraph II, first line, "Answering subdivisions 3 to 24, inclusive," should read "Answering subdivisions 3 to 29, inclusive.

Albert L. Reeves, U. S. District Judge.

[File endorsement omitted.]

[fol. 60] IN UNITED STATES DISTRICT COURT

ORDER DISMISSING PETITION—Filed Nov. 27, 1929

This cause coming on to be heard before a statutory court of three judges, after due consideration and being fully advised in the premises, it is by the Court ordered, adjudged and decreed that the petition herein be and the same is hereby dismissed at petitioners' costs.

Archibald K. Gardner, Circuit Judge. Albert L. Reeves, District Judge. Merrill E. Otis, District Judge.

[File endorsement omitted.]

[fol. 61] IN UNITED STATES DISTRICT COURT

PETITION FOR APPEAL—Filed Nov. 27, 1929

To the Honorable Archibald K. Gardner, United States Circuit Judge, and Albert L. Reeves and Merrill E. Otis, United States District Judges:

[fol. 62] Petition for appeal by The Beaumont, Sour Lake & Western Railway Company, The Fort Worth and Denver City Railway Company, The Galveston, Harrisburg and San Antonio Railway Company, Houston and Shreveport Railroad Company, Houston & Texas Central Railroad Company, The Houston East and West Texas Railway Company, International Great Northern Railroad Company, The Kansas City Southern Railway Company, Louisiana & Arkansas Railway Company, Louisiana Railway & Navigation Company, Louisiana Western Railroad Company, Missouri-Kansas-Texas Railroad Company, Missouri-Kansas-Texas Railroad Company of Texas, Missouri Pacific Railroad Company, Morgan's Louisiana and Texas Railroad and Steamship Company, New Orleans, Texas & Mexico Railway Company, The St. Louis, Brownsville and Mexico Railway Company, St. Louis-San Francisco Railway Company, St. Louis, San Francisco and Texas Railway Company, St. Louis Southwestern Railway Company, St. Louis Southwestern Railway Company of Texas, San Antonio & Aransas Pass Railway Company, Texas and New Orleans Railroad Company, and The Texas and Pacific Railway Company

Now come The Beaumont, Sour Lake & Western Railway Company, The Fort Worth and Denver City Railway Company, The Galveston, Harrisburg and San Antonio Railway Company, Houston and Shreveport Railroad Company, Houston & Texas Central Railroad Company, The Houston East and West Texas Railway Company, International-Great Northern Railroad Company, The Kansas City Southern Railway Company, Louisiana & Arkansas Railway Company, Louisiana Railway & Navigation Company, Louisiana Western Railroad Company, Missouri-Kansas-Texas Railroad Company, Missouri-Kansas-Texas

Railroad Company of Texas, Missouri Pacific Railroad Company, Morgan's Louisiana and Texas Railroad and Steamship Company, New Orleans, Texas & Mexico Railway Company, The St. Louis, Brownsville and Mexico Railway Company, St. Louis-San Francisco Railway Company, St. Louis, San Francisco and Texas Railway Company, St. Louis Southwestern Railway Company, St. Louis [fol. 63] Southwestern Railway Company of Texas, San Antonio & Aransas Pass Railway Company, Texas and New Orleans Railroad Company, and The Texas and Pacific Railway Company, being the petitioners herein, by their solicitors, and feeling aggrieved by the final order or decree of the District Court made and entered herein, on, to-wit, November 27, 1929, do hereby appeal therefrom to the Supreme Court of the United States, and they pray that their appeal be allowed and that citation be issued as provided by law.

The particulars wherein they consider the final order or decree erroneous are set forth in the assignment of errors on file, to which reference is made.

They pray that a transcript of the record, proceedings and papers on which the final order or decree was made and entered, duly authenticated, may be transmitted forthwith to the Supreme Court of the United States.

And they further pray that the proper order relating to the security to be required of them be made.

F. H. Moore, W. E. Davis, E. T. Miller, M. G. Robert, J. R. Bell, G. H. Muckley, H. H. Larimore, C. S. Burg, J. R. Turney, Robert Thompson, Solicitors for Petitioners.

[File endorsement omitted.]

[fol. 64] In United States District Court

Assignment of Errors—Filed Nov. 27, 1929

The Beaumont, Sour Lake & Western Railway Company, The Fort Worth and Denver City Railway Company, The Galveston, Harrisburg, and San Antonio Railway Company, Houston and Shreveport Railroad Company, Hous-

ton & Texas Central Railroad Company, The Houston East and West Texas Railway Company, International-Great [fol. 65] Northern Railroad Company, The Kansas City Southern Railway Company, Louisiana & Arkansas Railway Company, Louisiana Railway & Navigation Company, Louisiana Western Railroad Company, Missouri-Kansas-Texas Railroad Company, Missouri-Kansas-Texas Railroad Company of Texas, Missouri Pacific Railroad Company, Morgan's Louisiana and Texas Railroad and Steamship Company, New Orleans, Texas & Mexico Railway Company, The St. Louis, Brownsville and Mexico Railway Company, St. Louis-San Francisco Railway Company, St. Louis, San Francisco and Texas Railway Company, St. Louis Southwestern Railway Company, St. Louis Southwestern Railway Company of Texas, San Antonio & Aransas Pass Railway Company, Texas and New Orleans Railroad Company, and The Texas and Pacific Railway Company, now come by their counsel, and in connection with their petition for appeal file the assignment of errors on which they will rely on their appeal to the Supreme Court of the United States from the final order or decree of the District Court of the United States for the Western Division of the Western District of Missouri, in case No. 1363, in Equity, entitled The Beaumont, Sour Lake & Western Railway Company et al., petitioners, vs. The United States of America et al., defendants, entered on to-wit: November 27, 1929, dismissing the petition filed by the petitioners (being the appellants herein) named therein, asking that the order entered by the Interstate Commerce Commission in the proceeding entitled, "In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories," Docket No. 15234, 148 I. C. C. 457, 156 I. C. C. 94, be enjoined, set aside, annulled and suspended, said assignment of errors being as follows:

1. The District Court erred in entering a decree herein refusing to grant the relief prayed by petitioners in their petition in the above entitled cause, and in dismissing said petition.

[fol. 66] 2. The District Court erred in failing to hold the Commission's said order void, and against the public interest, because the Commission, after finding that the vital

thing to ascertain in fixing divisions as between two groups of carriers selected by the Commission, one group being located in the Western Trunk Line territory, and the other group, in the Southwestern territory,—said territories being defined by the Commission, in the said proceeding entitled Docket No. 15234, and the said carriers being the respondents in the said proceeding,—was the cost of service, and that a better basis of comparison was the cost of service including a fair return upon investment (that is, the amount required to pay operating expenses, taxes, and other like charges, and a fair return upon investment), and after ascertaining the average cost of service, including a fair return on investment of each of said groups of carriers, made an order fixing a basis of divisions, as between the said two groups of respondents, which applied indiscriminately to the prosperous and the needy respondents in each territory, regardless of the amount needed by each individual respondent in order to permit it to pay its operating expenses, taxes and like charges, and to earn a fair return on investment, said order granting increased revenues, in many cases, to a Western Trunk Line respondent which was already receiving a higher rate of return than the Southwestern respondent from which such increased revenues were taken by the Commission's order, and in some cases taking revenue from a Southwestern respondent which was operating at a deficit, or receiving a very small return.

3. The District Court erred in refusing to hold the Commission's said order void because the Commission made only two definite findings, upon what it stated to be the vital considerations, as a basis for fixing divisions, namely: (1) That the vital thing to ascertain in the proceeding was the relative cost of service in the Western Trunk Line territory and the Southwestern territory, respectively, in which respect the Commission found that it cost on an [fol. 67] average about 15% more per ton-mile to haul freight in the Southwestern territory than in the Western Trunk Line territory, and (2) that a still better basis for comparison was the amounts needed in each case to cover operating expenses, taxes, and other like charges, and a fair return on investment, in which respect the Commission found that the average freight revenue per ton per

mile needed in Western Trunk Line territory to pay such expenses, taxes, and other like charges and a fair return on investment, based on 1924 revenues and expenses, was 12.01 mills per ton per mile, as compared with 14.29 mills per ton mile in Southwestern territory, an excess for the latter of 18.9%; and that, therefore, the cost of service, including a fair return on investment, was about 20% greater, on the average, in the Southwestern group than in the Western Trunk Line group, based on averages of 1923 and 1924 operations, and about 17% greater, based on 1924 operations; but the Commission, after making the above findings, prescribed a formula for the division of the revenue from the said rates which yields to the respondents in the Southwestern territory only 9% greater average revenue per ton per mile, than is received by the Western Trunk Line respondents, without any findings or evidence supporting such action.

4. The District Court erred in failing to hold the Commission's said order void because the Commission, after stating that the vital thing to ascertain is the relative cost of service, in the Western Trunk Line territory and the Southwestern territory, respectively, and thereupon finding the average cost of such service, and further stating that a still better basis of comparison is the relative cost of service, including a fair return on investment, in said territories respectively, and thereupon finding the average cost thereof, prescribed a formula for dividing the revenue from the joint rates, which assumed, without any finding or evidence in support thereof, that the cost of service including a fair return on investment, varies with the length of haul, and that the formula prescribed by the Commission would divide such revenue in proportion to such cost of service, including a fair return on investment, al- [fol. 68] though there was no finding or evidence in support thereof; and the District Court erred in upholding the Commission's finding and decision in this respect, by using the same erroneous arguments and assumptions as the Commission used.

5. The District Court erred in failing to hold the Commission's said order void because it is based on averages only and because the Commission in the said proceeding,

did not take into consideration, and made no study of, or findings as to, each individual carrier, either on the basis of typical evidence or specific evidence, and also because the evidence, statements and findings in the Commission's report show that the conditions of the individual carriers in each so-called group are not the same, but are widely dissimilar, so that substantial justice cannot be done to the individual carriers by a group order.

6. The District Court erred in refusing to hold the Commission's said order void as being based upon no rational, consistent and lawful plan, because the said proceeding purported to be for the purpose of fixing divisions of the joint rates applying between two territories, that is, the Western Trunk Line territory and the Southwestern territory, respectively, and there should have been included as parties and said order should have been made applicable to all the carriers in the said two territories and to all the joint rates applying to the traffic between the said two territories, but, as a matter of fact, a large number of carriers whose railroads are located partly or wholly in the said territories and which participate in such joint rates, [fol. 69] were omitted, and the said order applies only to the division of revenue from the joint rates applying to traffic moving to or from a point on the railroad of one of the Southwestern respondents from or to a point on the railroad of one of the Western Trunk Line respondents, or to or from a point on the railroad of one of the Southwestern respondents, which passes over the railroad of one of the Western Trunk Line respondents, in transportation from or to a point in the territory east of the Illinois-Indiana State Line and on and north of the Ohio River and the line formed by the Chesapeake & Ohio, Norfolk & Western and Virginian Railroads between Cincinnati, Ohio, and Norfolk, Virginia; and a motion filed with the Commission by the Southwestern carriers, that all Southwestern carriers should be made parties to the proceeding, should have been sustained.

7. The District Court erred in refusing to hold the Commission's said order void as being based upon no rational, consistent and lawful plan because, since the said order was based primarily on the needs of the carriers in the

Western Trunk Line territory and Southwestern territory, respectively, for revenue to pay operating expenses, taxes and other like charges, and a fair return on investment, an order should have been made, which would give in- [fol. 70] creased revenues to the individual carriers which were in relatively greater need thereof, and would take such revenues only from the individual carriers which were enjoying relatively higher returns.

8. The District Court erred in refusing to hold the Commission's said order void as being based upon no rational, consistent and lawful plan, because, since the said order was based primarily on the needs of the carriers in the Western Trunk Line territory and Southwestern territory, respectively, for revenues to pay operating expenses, taxes, and other like charges, and a fair return on investment, there should have been included as respondents, the carriers which were particularly in need of increased revenue, on the one hand, and there should have been included all of the direct connections of each of said carriers, on the other hand, as was done in the Orient Divisions Case (United States v. Abilene & Southern Ry. Co., 265 U. S. 274), in order that the individual financial needs of each carrier particularly in need of increased revenue might be ascertained, and the burden of providing it with additional revenue might be apportioned among its connections in accordance with the individual ability of each connecting carrier, instead of forming, as was erroneously done by the Commission, two groups of carriers of all degrees of financial ability, and making a division order between the two so-called groups.

9. The District Court erred in holding in effect that the Southwestern respondents are estopped from making objections to the validity of the Commission's order because of the manner in which the defense was conducted by the Southwestern respondents, since the proceeding was not conducted upon any definite statement of issues, nor by any framed issues by pleadings, which would enable said respondents to make an adequate defense, or to make an election as to the course to be pursued.

10. The District Court erred in failing to hold that the said order is void for the reason that the Commission

[fol. 71] exceeded its lawful authority in prescribing the minimum divisions which the respondents, or any of them, may collect, receive, or accept.

11. The District Court erred in failing to hold the Commission's said order void because in so far as the said order applied to the divisions of joint rates on traffic to and from points east of the Illinois-Indiana State line the Commission did not have all the necessary and proper parties before it to-wit: The railroads operating within the territory east of the Illinois-Indiana state line and connecting with the Western Trunk Line respondents at junctions in the state of Illinois, nor sufficient evidence upon which to prescribe such divisions.

12. The District Court erred in failing to hold the Commission's said order void for the reason that its decision is based upon such incomplete, general and unreliable evidence and conjectures (such as the use of statistics of operating revenues and expenses of railroads which were not made parties to the said proceeding, and statistics of operating revenues and expenses from all traffic, and of the entire lines of railroad of said respondents, instead of being confined to the traffic transported under the joint rates involved in this proceeding, and to the portions of said lines of railroad which are located in the Western Trunk Line territory and Southwestern territory, respectively) as prevent the making of reasonably accurate findings as the basis for an order, which order takes a large amount of revenue from one so-called group of carriers and grants the same to another so-called group of carriers.

13. The District Court erred in holding and deciding that the order of the Interstate Commerce Commission only incidentally affects the revenues of the companies involved, and that the said order was not entered for the purpose of assisting one group of carriers over another group of carriers, but to correct an inequitable and unreasonable basis [fol. 72] of divisions.

14. The District Court erred in failing to hold the Commission's said order void because the said order required the payment of increased divisions to the Chicago, Mil-

waukee, St. Paul & Pacific Railroad Company, a corporation which was not a party to the proceeding, and the District Court erred in the reasons, assigned by it, for sustaining the action of the Commission.

15. The District Court erred in failing to hold the Commission's said order void because, as shown by the Commission's reports in said proceeding, none of the said petitioners is earning a fair return upon its investment, and the said order, as to each of said petitioners, is therefore confiscatory.

16. The District Court erred in failing to hold the Commission's said order void for the reason that, as shown by the Commission's reports in the said proceeding, the Commission, as to material issues, made findings and entered its order upon assumptions of fact not supported by the evidence before it, and considered matters which were not introduced in evidence, to-wit:

(a) The Commission assumed, without any evidence to that effect, that the book values of respondents in the Southwestern region are on a less conservative basis than those of the Western Trunk Line respondents.

(b) The Commission prescribed and ordered to be made effective a formula for dividing the joint rates involved upon the basis of percentages of the first-class rates under the Southwestern rate scale as prescribed by the Commission in Consolidated Southwestern Cases, 123 I. C. C. 203, although that scale was not in evidence in the proceeding before the Commission.

(c) The Commission neither introduced nor had before it for consideration evidence showing the cost of operation, or cost of operation, taxes and other like charges and return on investment, on respondents' lines confined to that porting to be the average operating revenues, average said divisions proceeding.

[fol. 73] (d) The Commission considered statistics purporting to be the average operating revenues, average operating expenses, and average hauls of the Great Northern Railroad, the Northern Pacific Railroad, the Western Pacific Railroad and the Union Pacific Railroad, and each

of them, as extracted from the annual reports of said railroads for the year 1924, although none of said statistics and no part of said annual reports were introduced in evidence in the proceeding before the Commission.

(e) The Commission assumed that the operating conditions in "Official Territory" (that is, that portion of the United States generally east of the Illinois-Indiana state line and north of the Ohio River) and in the Mississippi Valley territory (that is, that portion of the United States immediately east of the Mississippi River and south of the Ohio River through which the Illinois Central Railroad operates from St. Louis, Missouri, to New Orleans, Louisiana,) are more favorable than in Western Trunk Line territory (as described in the Commission's report) although there was no evidence to this effect in the proceeding before the Commission.

(f) The Commission considered the traffic densities, segregated by states, for the year 1927, upon the lines of the railroads operating in the Western Trunk Line territory and Southwestern territory, although said statistics were not in evidence before the Commission.

(g) Without introducing or receiving any evidence upon the subject, the Commission assumed that there is a decrease in progression in the cost of operation upon respondents' lines of railroad as the length of the haul increases, and further assumed that the cost of handling the traffic involved in the divisions proceeding decreases in accordance with the formula prescribed by the Commission.

[fol. 74] (h) The Commission neither introduced nor had before it for consideration evidence showing the operating expenses, or operating expenses, taxes and other like charges and a fair return on investment as regards the transportation service performed upon the traffic transported under the joint rates involved in the said divisions proceeding.

17. The District Court erred in failing to hold the Commission's said order void for the reason that the findings of fact made by the Commission do not sustain its order in the said proceeding, but are inconsistent with and contrary to the said order.

18. The District Court erred in failing to hold that, under the circumstances of the case, the refusal of the Commission to grant a rehearing constitutes an abuse of discretion, and a denial of due process of law under the Fifth Amendment to the Constitution of the United States.

19. The District Court erred in failing to hold that the said proceeding before the Interstate Commerce Commission was an adversary proceeding, and that therefore the burden of proof was upon the respondent carriers located in Western Trunk Line territory, which carriers were in effect complainants in the said proceeding, and which burden the said respondents failed to sustain.

20. The District Court erred in failing to hold the Commission's said order void because the said order required the payment of increased divisions by certain of the respondents in the said proceeding, without any consideration whatever, by the Commission, as shown by the Commission's reports, of the financial condition of such respondents, and also required the payment of increased divisions to certain respondents, such as the Atchison, Topeka and Santa Fe Railway Company, which opposed the granting of increased divisions to the Western Trunk Line respondents, and to the Chicago, Rock Island & Pacific Railway Com- [fol. 75] pany, which took no part whatever in the proceeding.

21. The District Court erred in failing to hold the Commission's said order void, because the formula, which the Commission prescribed, in the said proceeding, for the division of the revenue from the said joint rates, was not introduced in evidence, nor in any manner submitted to, nor brought to the knowledge of the Southwestern respondents, during the taking of testimony and hearings in the said proceeding, and the Southwestern respondents therefore had no opportunity to introduce testimony, nor to be heard, with reference to the said formula, and they were therefore denied the hearing to which they were entitled.

22. The District Court erred in failing to hold that the Commission's said order is void for the reason that it is palpably arbitrary and palpably unreasonable; also, unsupported by and contrary to the findings of fact and the evidence in the case; also, contrary to the purposes and pro-

visions of the Interstate Commerce Act, and particularly of Section 15 (6) thereof; also, contrary to the public interest; and also, in conflict with the due process clause of the Fifth Amendment to the Constitution of the United States.

Wherefore, the petitioners, and each of them, pray that the final order or decree of the District Court, entered on, to-wit: November 27th, 1929, be reversed, annulled and set aside, with directions that the said order entered by the Interstate Commerce Commission in its Docket No. 15234, 148 I. C. C. 457, 156 I. C. C. 94, shall be permanently en-
[fol. 76] joined, set aside, annulled and held for naught; and petitioners further pray for such other and further order as may be appropriate.

F. H. Moore, W. E. Davis, E. T. Miller, M. G. Roberts, J. R. Bell, G. H. Muckley, H. H. Larimore, C. S. Burg, J. R. Turney, Robert Thompson, Solicitors for Petitioners.

[File endorsement omitted.]

[fol. 77] IN UNITED STATES DISTRICT COURT

PETITION FOR STAY OF ORDER OF THE INTERSTATE COMMERCE COMMISSION—Filed Nov. 27, 1929

To the Honorable Archibald K. Gardner, United States Circuit Judge, and Albert L. Reeves and Merrill E. Otis, United States District Judges:

Now come petitioners in the above entitled cause by their solicitors and show that the order entered on June 10, 1929, by the Interstate Commerce Commission in a proceeding known and entitled Docket No. 15234, "In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories" (reported in 148 I. C. C. 457 and 156 I. C. C. 94), wherein a new basis is prescribed of divisions of the revenue from the joint rates applying on traffic transported between petitioners and the Western Trunk Line railroads which are named as respondents in said proceeding, and the amended and supplemental orders dated July 25, 1929, and September 24, 1929, are not now in effect, but will become

effective on December 1, 1929, unless stayed, enjoined, restrained, or suspended. Petitioners further show that they have filed petition for appeal and assignment of errors for the purpose of taking an appeal from the decree of this Court denying their petition in the above entitled cause, and that the said appeal has been allowed. Petitioners further show that novel and important questions concerning which there is serious doubt are presented by the petition for injunction herein and the assignment of errors filed herewith, [fol. 78] which should be reviewed by the Supreme Court of the United States; that the petition for injunction and annullment of the Commission's aforesaid orders was filed and prosecuted by said petitioners in good faith because they believe that said orders of said Commission are illegal and void; that there are substantial and reasonable grounds for petitioners' contention that the aforesaid orders of the Interstate Commerce Commission, and therefore the decree of this Court herein, are contrary to the principles announced by the Supreme Court of the United States in the New England Divisions Case (Acron C. & Y. Ry. Co. v. United States) 261 U. S. 184, the Orient Divisions case (United States v. Abilene & S. Ry. Co.) 265 U. S. 274, and the Brimstone Divisions case (Brimstone R. & C. Co. v. U. S.) 276 U. S. 104; that on account of the financial condition of some of the respondent railroad companies in Western Trunk Line territory which are in receiverships, petitioners would be in danger of being unable to recover any increased divisions which they might pay to said Western Trunk Lines in the event that the decree of this Court should be reversed on appeal, and said order and orders of the Interstate Commerce Commission be adjudged to be invalid; that irreparable injury will result if the Commission's said order and orders are not stayed pending appeal; that the net revenues of some of petitioners will be seriously affected if the said order and orders of the Commission are permitted to become effective; that the said orders of the Interstate Commerce Commission do not apply to all of the joint rates between Western Trunk Line territory and Southwestern territory, and that the establishment of the basis of divisions prescribed will therefore necessarily cause confusion and necessitate a large amount of labor and expense which should not be incurred unless the validity of the said orders should be upheld on appeal; that if

[fol. 79] the said order and orders of the Interstate Commerce Commission are stayed pending appeal, the public will not be caused to suffer in any manner by reason of said stay; and that the rights and interests of the said respondent railway companies in Western Trunk Line territory can be fully and adequately protected by the execution by petitioners (appellants) of a good and sufficient bond.

Wherefore, petitioners pray that an order may be entered in this cause staying and restraining, during the pendency of the appeal herein to the Supreme Court of the United States, the enforcement, operation, and execution against petitioners (appellants) or any of them, of the order of the Interstate Commerce Commission entered under date of June 10, 1929, and the amended and supplemental orders dated July 25, 1929, and September 24, 1929, in the proceeding before said Commission entitled and known as Docket No. 15234, "In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories" (reported in 148 I. C. C. 457 and 156 I. C. C. 94); and that the amount of security to be given by petitioners on account of such stay or restraining order be fixed by this Court; and for such other and further order as the Court may deem proper.

F. H. Moore, W. E. Davis, E. T. Miller, M. G. Roberts, J. R. Bell, G. H. Muckley, H. H. Larimore, C. S. Burg, J. R. Turney, Robert Thompson, Solicitors for Petitioners.

[File endorsement omitted.]

[fol. 80] IN UNITED STATES DISTRICT COURT

ORDER ALLOWING APPEAL—Filed Nov. 30, 1929

Upon the entering of the final decree in this cause came F. H. Moore and W. E. Davis, solicitors and counsel for petitioners, and filed assignment of errors and petition for appeal, and it is hereby ordered that an appeal by the petitioners in the above entitled cause to the Supreme Court of the United States from the decree heretofore filed and entered herein on November 27, 1929, be and the same is hereby allowed, and that a certified transcript of the record,

testimony, exhibits, stipulations, and all proceedings be forthwith transmitted to the said Supreme Court of the United States, said appeal being hereby made returnable thirty days from the date hereof.

It is further ordered that the bond on appeal be and the same is hereby fixed at the sum of Two Thousand ($2,000.00) Dollars.

Dated November 27, 1929.

Archibald K. Gardner, United States Circuit Judge.
Arthur L. Reeves, Merrill E. Otis, United States District Judges for the Western District of Missouri.

[File endorsement omitted.]

[fol. 81] IN UNITED STATES DISTRICT COURT

ORDER FOR STAY OF THE ORDER OF THE INTERSTATE COMMERCE COMMISSION—Filed Nov. 30, 1929

Upon the entering of the final decree in this cause came F. H. Moore and W. E. Davis, Solicitors and Counsel for Petitioners, and filed petition for appeal and assignment of errors and a petition for stay of the order of the Interstate Commerce Commission made June 10, 1929, and the amended and supplemental orders of July 25, 1929, and September 24, 1929, in the proceeding entitled "In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories," Docket No. 15234.

Said petition for a stay of the said order of the said Commission, having been considered by the Court, the Court being of opinion that novel and important questions concerning which there is serious doubt are presented by the assignment of errors filed herein which should be reviewed by the Supreme Court of the United States; that on account of the financial condition of some of the respondent railroad companies in Western Trunk Line Territory which are in receiverships, petitioners would be in danger of not being able to recover any increased divisions which they might pay to said Western Trunk Line respondents, in the event that the decree of this Court should be reversed on appeal and said order, or orders, of the Interstate Com-

merce Commission be adjudged to be invalid; that irreparable injury may result if the Commission's said order is not stayed pending appeal, and that on account of the effect on the net revenues of the petitioners, and the fact that the said orders of the Interstate Commerce Commission do not apply to all the joint rates between Western Trunk Line and Southwestern Territory, which will necessarily cause confusion and necessitate a large amount of labor and expense which should not be incurred unless the validity of the said orders should be upheld on appeal, and the said order of the Commission not yet having gone into effect,

And the Court being of the further opinion that the status [fol. 82] quo should be preserved pending appeal; that if the said order of the Interstate Commerce Commission is stayed pending appeal the public will not suffer in any manner by reason of said stay; and that the rights and interests of the said respondent railway companies in Western Trunk Line Territory can be fully and adequately protected by the execution by appellants of a good and sufficient bond;

It is, therefore, ordered that the enforcement, operation, and execution against appellants, or any of them, of the order of the Interstate Commerce Commission entered under date of June 10, 1929, and the amended and supplemental orders dated July 25, 1929, and September 24, 1929, in the proceeding before said Commission entitled and known as Docket No. 15234, "In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories" (reported in 148 I. C. C. 457 and 156 I. C. C. 94) be and it is hereby stayed, restrained, enjoined and suspended as to appellants and each of them during the pendency and until the determination of this appeal by the Supreme Court of the United States, and that supersedeas thereof and of the said decree of this Court be and is hereby granted and allowed, upon condition that appellants file within 15 days herefrom a joint and several bond in the sum of Three Million ($3,000,000) Dollars with surety to be approved by Hon. Albert L. Reeves, U. S. District Judge; the obligees in said bond to be the defendant and intervening defendants in this cause (that is, the appellees) and also The Atchison, Topeka and Santa Fe Railway Company; The Chicago, Rock Island and Pacific Railway Company; Chicago, Rock Island and Gulf Railway Company; Chicago, Milwaukee,

St. Paul and Pacific Railroad Company; Gulf, Colorado and Santa Fe Railway Company; Kansas, Oklahoma & Gulf Railway Company; The Kansas City, Mexico and Orient Railway Company; Kansas City, Mexico and Orient Railway Company of Texas; Panhandle and Santa Fe Railway Company; Quincy, Omaha & Kansas City Railroad Com-
[fol. 83] pany and Vicksburg, Shreveport & Pacific Railway Company; and also Missouri-Kansas-Texas Railroad Company and Missouri Pacific Railroad Company, the two latter railroads, which are appellants herein, to be included as obligees in the said bond for the reason that they have lines of railroad operating on and north of the main line of the Missouri Pacific Railroad between Kansas City, Missouri, and St. Louis, Missouri, described as Western Trunk Line territory in the aforesaid proceeding before the Commission.

It is further ordered that the aforesaid bond shall be conditioned that the appellants will prosecute their appeal to effect and answer all damages and costs, and shall pay or cause or to be paid all net amounts due to said obligees, or any of them, from the said appellants, or any of them, under the said orders of the Interstate Commerce Commission, if appellants or any of them fail to make good their plea.

Dated November 29th, 1929.

Archibald K. Gardner, United States Circuit Judge.
Albert L. Reeves, Merrill E. Otis, United States District Judges for the Western District of Missouri.

[File endorsement omitted]

[fols. 84-88] Bond on appeal for $2,000, approved and filed November 30, 1929, omitted in printing.

[fols. 89-96] Bond on stay for $3,000,000.00, approved and filed November 30, 1929, omitted in printing.

[fols. 97 & 98] Supplemental bond of Texas & Pacific Co., approved and filed December 7, 1929, omitted in printing.

[fol. 99] IN UNITED STATES DISTRICT COURT

NOTICE OF CROSS-APPEAL—Filed Dec. 23, 1929

To Honorable Stratton Shartel, Attorney General, State of Missouri, Jefferson City, Mo.:

You are hereby notified that the defendant, United States of America, and intervening defendant, Interstate Commerc Commission, have taken a cross-appeal to the Supreme Court of the United States from the "order for stay of the Interstate Commerce Commission" entered by the District Court on November 29, 1929, which stayed, restrained, enjoined and suspended that certain order of the Interstate Commerce Commission in the proceeding entitled "In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories", Docket No. 15234, made and entered June 10, 1929, and the amended and supplemental orders of July 25, 1929, and September 24, 1929.

This notice is given to you pursuant to the provisions of the Urgent Deficiencies Act of October 22, 1913, (Ch. 32, 38 Stat. 208, 220, 221).

December 12, 1929.

Claude E. Curtis, Asst. United States Attorney, Western District of Missouri, Western Division. [fol. 100] Elmer B. Collins, Special Assistant to the Attorney General. E. M. Reidy, Attorney for Interstate Commerce Commission.

Service of a copy of the within notice is hereby admitted and acknowledged this 18th day of December 1929.

Smith B. Atwood, Asst. Attorney General, State of Missouri.

[File endorsement omitted.]

IN UNITED STATES DISTRICT COURT

PETITION FOR CROSS-APPEAL—Filed Dec. 23, 1929

United States of America and Interstate Commerce Commission, defendant and intervening defendant, respectively,

feeling themselves aggrieved by the following paragraphs of the "order for stay of the order of the Interstate Commerce Commission" of the District Court made and entered November 29, 1929, viz:

Said petition for a stay of the said order of the said Commission, having been considered by the Court, the Court being of opinion that novel and important questions concerning which there is serious doubt are presented by the assignment of errors filed herein which should be reviewed by the Supreme Court of the United States; that on account of the financial condition of some of the respondent railroad companies in Western Trunk Line territory which are in receiverships, petitioners would be in danger of not being able to recover any increased divisions which they might pay to said Western Trunk Line respondents, in the event that the decree of this Court should be reversed on appeal and said order, or orders, of the Interstate Commerce Commission be adjudged to be invalid; that irreparable injury may result if the Commission's said order is not stayed pending appeal, and that on account of the effect on the net revenues of the petitioners, and the fact that the said orders of the Interstate Commerce Commission do not apply to all the joint rates between Western Trunk Line and South-[fol. 101] western territory, which will necessarily cause confusion and necessitate a large amount of labor and expense which should not be incurred unless the validity of the said orders should be upheld on appeal, and the said order of the Commission not yet having gone into effect.

And the Court being of the further opinion that the status quo should be preserved pending appeal; that if the said order of the Interstate Commerce Commission is stayed pending appeal the public will not suffer in any manner by reason of said stay and that the rights and interests of the said respondent railway companies in Western Trunk Line territory can be fully and adequately protected by the execution by appellants of a good and sufficient bond;

It is, therefore, ordered that the enforcement, operation, and execution against appellants, or any of them, of the order of the Interstate Commerce Commission entered under date of June 10, 1929, and the amended and supplemental orders dated July 25, 1929, and September 24, 1929, in the proceeding before said Commission entitled and

known as Docket No. 15234, "In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories" (reported in 148 I. C. C. 457 and 156 I. C. C. 94) be and it is hereby stayed, restrained, enjoined and suspended as to appellants and each of them during the pendency and until the determination of this appeal by the Supreme Court of the United States, and that supersedeas thereof and of the said decree of this Court be and is hereby granted and allowed, upon condition that appellants file within 15 days herefrom a joint and several bond in the sum of Three Million ($3,000,000) Dollars with surety to be approved by Hon. Albert L. Reeves, U. S. District Judge; the obligees in said bond to be the defendant and intervening defendants in this cause (that is, the appellees) and also The Atchison, Topeka and Santa Fe Railway Company; The Chicago, Rock Island and Pacific Railway Company; Chicago, Rock Island and Gulf Railway Company; Chicago, Milwaukee, St. Paul and Pacific Railroad Company; Gulf, Colorado and Santa Fe Railway Company; Kansas, Oklahoma & Gulf [fol. 102] Railway Company; The Kansas City, Mexico and Orient Railway Company; Kansas City, Mexico and Orient Railway Company of Texas; Panhandle and Santa Fe Railway Company; Quincy, Omaha & Kansas City Railroad Company and Vicksburg, Shreveport & Pacific Railway Company; and also Missouri-Kansas-Texas Railroad Company and Missouri Pacific Railroad Company, the two latter railroads, which are appellants herein, to be included as obligees in the said bond for the reason that they have lines of railroad operating on and north of the main line of the Missouri Pacific Railroad between Kansas City, Missouri, and St. Louis, Missouri, described as Western Trunk Line territory in the aforesaid proceeding before the Commission.

pray a cross-appeal therefrom to the Supreme Court of the United States.

The particulars wherein they consider the foregoing paragraphs erroneous are set forth in the assignment of error on file to which reference is made.

They pray that a transcript of the record, pleadings, and papers on which the order for stay was made and entered,

duly authenticated, may be transmitted forthwith to the Supreme Court of the United States.

Claude E. Curtis, Asst. United States Attorney, Western District of Missouri, Western Division. Elmer B. Collins, Special Assistant to the Attorney General. E. M. Reidy, Attorney for Interstate Commerce Commission.

[File endorsement omitted.]

IN UNITED STATES DISTRICT COURT

ASSIGNMENT OF ERROR—Filed Dec. 23, 1929

United States of America and Interstate Commerce Commission, defendant and intervening defendant, respectively, [fol. 103] now come, by their respective counsel, and in connection with their petition for cross-appeal file the following assignment of error on which they will rely on their cross-appeal to the Supreme Court of the United States from "order for stay of the order of the Interstate Commerce Commission" of the District Court entered November 29, 1929:

The District Court erred in restraining enforcement of the Commission's order*ed* of June 10, 1929, July 25, 1929, and September 24, 1929, pending appeal to and determination of the appeal by the Supreme Court of the United States.

Wherefore, defendant and intervening defendant, respectively, and each of them, pray that said "order for stay of the order of the Interstate Commerce Commission" entered November 29, 1929, be reversed, annulled, and set aside, with directions that the stay order shall be forthwith dissolved, and for such other and further order as may be appropriate.

Claude E. Curtis, Asst. United States Attorney, Western District of Missouri, Western Division. Elmer B. Collins, Special Assistant to the Attorney General. E. M. Reidy, Attorney for Interstate Commerce Commission.

[File endorsement omitted.]

IN UNITED STATES DISTRICT COURT

ORDER ALLOWING CROSS-APPEAL—Filed Dec. 23, 1929

In the above-entitled cause, United States of America and Interstate Commerce Commission, defendant and intervening defendant, respectively, having made and filed their petition praying a cross-appeal to the Supreme Court of the United States from "order for stay of the order of the Interstate Commerce Commission" of the District Court made and entered November 29, 1929, and having also made and filed an assignment of error, and having in all respects conformed to the statute and rules of court in such case made and provided.

[fol. 104] It is ordered and decreed that the cross-appeal be, and the same is hereby, allowed as prayed and made returnable within thirty (30) days from the date hereof, and the Clerk is directed to transmit forthwith a properly authenticated transcript of the record, proceedings, and papers on which said order or decree was made and entered to the Supreme Court of the United States.

Albert L. Reeves, United States District Judge.

[File endorsement omitted.]

IN UNITED STATES DISTRICT COURT

TIME TO FILE TRANSCRIPT—Filed Dec. 26, 1929

For good cause shown, upon application of Appellants, the time in which to file the transcript of the record in the above cause in the Supreme Court of the United States and to docket the said cause therein, is hereby extended to the first day of February, A. D. 1930.

Archibald K. Gardner, United States Circuit Judge.
Albert L. Reeves, United States District Judge.
Merrill E. Otis, United States District Judge.

O. K. C. E. Curtis, Asst. U. S. Atty., Solicitor for the United States of America and the Interstate Commerce Commission, Appellees.

O. K. Frank Towner, by Charles M. Miller, Solicitor for William W. Wheelock and William G. Bierd, Receivers of the Chicago and Alton Railroad Company, Chicago and Eastern Illinois Railway Company, Chicago and North Western Railway Company, Chicago, Burlington and Quincy Railroad Company, Chicago, Great Western Railroad Company, Chicago, St. Paul, Minneapolis and Omaha Railway Company, Illinois Central Railroad Company, W. H. Bremner, Receiver of Minneapolis & St. Louis Railroad [fol. 105] Company; Minneapolis, St. Paul & Sault Ste. Marie Railway Company, and Wabash Railway Company, Appellees.

[File endorsement omitted.]

IN UNITED STATES DISTRICT COURT

NOTICE OF PETITIONER'S APPEAL WITH ACKNOWLEDGMENT OF SERVICE BY ATTORNEY GENERAL—Filed Jan. 7, 1930

To the Honorable Stratton Shartel, Attorney General, State of Missouri:

You are hereby notified that the petitioners in the above entitled case, which is a suit to enjoin, set aside and restrain a certain order and orders of the Interstate Commerce Commission in a proceeding before that Commission entitled Docket No. 15234, "In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories," have taken an appeal from the final order or decree made and entered in the District Court in the above entitled case on the 27th day of November, 1929, to the Supreme Court of the United States; and that the order allowing the appeal makes the same returnable within 30 days from November 27, 1929.

This notice is given to you pursuant to the provisions of the Urgent Deficiencies Act of October 22, 1913 (38 Stat. L. 220, 221).

F. H. Moore, W. E. Davis, E. T. Miller, M. G. Roberts, J. R. Bell, G. H. Muckley, H. H. Larimore, C. S. Burg, J. R. Turney, Robert Thompson, Solicitors for Petitioners.

Service of a copy of the above notice is hereby acknowl-
[fol. 106] edged this 18th day of December, 1929.

Stratton Shartel, Attorney General of the State of Missouri, by Smith B. Atwood, Asst. Attorney General.

[File endorsement omitted.]

IN UNITED STATES DISTRICT COURT

RECORD ENTRY NARRATIVE TRANSCRIPT OF TESTIMONY LODGED JAN. 11, 1930

This day come the petitioners by their solicitors and lodge with the clerk of this court the narrative transcript of the testimony in this cause.

IN UNITED STATES DISTRICT COURT

RECORD ENTRY NOTICE OF LODGING NARRATIVE TRANSCRIPT OF TESTIMONY, ETC.—Filed Jan. 16, 1930

This day come petitioners and file Notice of lodging Narrative Transcript of Testimony, Motion for order to certify original exhibits to the Supreme Court, Præcipe for Transcript, Notice to respondents to furnish tariffs for inclusion in record and Notice of hearing on Motion to certify original exhibits.

IN UNITED STATES DISTRICT COURT

NOTICE OF LODGING NARRATIVE STATEMENT OF EVIDENCE—Filed Jan. 15, 1930

To the United States of America, Interstate Commerce Commission, William W. Wheelock and William G. Bierd, receivers of the Chicago and Alton Railroad Company,

Chicago and Eastern Illinois Railway Company, Chicago and North Western Railway Company, Chicago, Burlington and Quincy Railroad Company, Chicago, Great Western Railroad Company, Chicago, St. Paul, Minneapolis and Omaha Railway Company, Illinois Central Railroad Company; W. H. Bremner, receiver of the Minneapolis & St. Louis Railroad Company, Minneapolis, St. Paul & Sault St. Marie Railway Company, and Wabash Railway Company, appellees:

[fol. 107] You and each of you are hereby notified that the Appellants, The Beaumont, Sour Lake & Western Railway Company, The Fort Worth and Denver City Railway Company, The Galveston, Harrisburg and San Antonio Railway Company, Houston and Shreveport Railroad Company, Houston & Texas Central Railroad Company, The Houston East and West Texas Railway Company, International-Great Northern Railroad Company, The Kansas City Southern Railway Company, Louisiana & Arkansas Railway Company, Louisiana Railway & Navigation Company, Louisiana Western Railroad Company, Missouri-Kansas-Texas Railroad Company, Missouri-Kansas-Texas Railroad Company of Texas, Missouri Pacific Railroad Company, Morgan's Louisiana and Texas Railroad and Steamship Company, New Orleans, Texas & Mexico Railway Company, The St. Louis, Brownsville and Mexico Railway Company, St. Louis-San Francisco Railway Company, St. Louis, San Francisco and Texas Railway Company, St. Louis Southwestern Railway Company, St. Louis Southwestern Railway Company of Texas, San Antonio & Aransas Pass Railway Company, Texas and New Orleans Railroad Company, and The Texas and Pacific Railway Company, in the above entitled cause, have on this the 11th day of January, A. D. 1930, lodged in the office of the clerk of the said Court at Kansas City, Missouri, a condensed statement in narrative form of the evidence taken in this case, including the evidence taken before the Interstate Commerce Commission which was introduced in evidence in this case; and that a true and correct copy of the said condensed statement is hereto attached for your information.

You are hereby further notified that the appellants herein will on the 23rd day of January, A. D. 1930, at 9:30 o'clock a. m., or as soon thereafter as counsel can be heard,

present such condensed statement in narrative form of the said evidence to the Court rendering the decree herein, or some judge thereof, either in court or chambers at the Federal Building at Kansas City, Missouri, and will ask the said Court, or some judge thereof, to approve such [fol. 108] condensed statement, at which time and place you may appear and be heard if you so desire.

F. H. Moore, W. E. Davis, E. T. Miller, M. G. Roberts, J. R. Bell, G. H. Muckley, H. H. Larimore, C. S. Burg, J. R. Turney, Robert Thompson, Solicitors for Appellants.

Service of the said notice of lodgment of the said evidence, and receipt of copies of the said notice of lodgment of evidence and of said statement of evidence, are hereby admitted and acknowledged upon the dates shown below.

United States of America, by Elmer B. Collins, Spec. Asst. to the Atty. General, January 14, 1930. Interstate Commerce Commission, by Edward M. Reidy, Asst. Chief Counsel, January 13, 1930. William W. Wheelock and William G. Bierd, Receivers of the Chicago and Alton Railroad Company, Chicago and Eastern Illinois Railway Company, Chicago and North Western Railway Company, Chicago, Burlington and Quincy Railroad Company, Chicago Great Western Railroad Company, Chicago, St. Paul, Minneapolis and Omaha Railway Company, Illinois Central Railroad Company; W. H. Bremner, Receiver of Minneapolis & St. Louis Railroad Company, Minneapolis, St. Paul & Sault Ste. Marie Railway Company, and Wabash Railway Company, by Frank H. Towner, January 13, 1930.

[File endorsement omitted.]

[fol. 109] IN UNITED STATES DISTRICT COURT

MOTION FOR ORDER TO CERTIFY ORIGINAL EXHIBITS TO THE SUPREME COURT—Filed Jan. 15, 1930

Comes now The Beaumont, Sour Lake & Western Railway Company, The Fort Worth and Denver City Railway

Company, The Galveston, Harrisburg and San Antonio Railway Company, Houston and Shreveport Railroad Company, Houston & Texas Central Railroad Company, The Houston East and West Texas Railway Company, International-Great Northern Railroad Company, The Kansas City Southern Railway Company, Louisiana & Arkansas Railway Company, Louisiana Railway & Navigation Company, Louisiana Western Railroad Company, Missouri-Kansas-Texas Railroad Company, Missouri-Kansas-Texas Railroad Company of Texas, Missouri Pacific Railroad Company, Morgan's Louisiana and Texas Railroad and Steamship Company, New Orleans, Texas & Mexico Railway Company, The St. Louis, Brownsville & Mexico Railway Company, St. Louis-San Francisco Railway Company, St. Louis, San Francisco and Texas Railway Company, St. Louis Southwestern Railway Company, St. Louis Southwestern Railway Company of Texas, San Antonio & Aransas Pass Railway Company, Texas and New Orleans Railroad Company, and The Texas and Pacific Railway Company, petitioners and appellants herein, by their counsel, F. H. Moore and W. E. Davis, and ask that the Court enter an order in the above entitled cause authorizing and directing that the Clerk of the Court, in preparing the transcript of the record on appeal of the said cause to the Supreme Court of the United States, shall certify all of the original exhibits introduced in evidence in the said cause, being the exhibits introduced in evidence at the hearing before the Court and which were marked for identification Petitioners' Exhibits 2 to 27, inclusive, and also all the exhibits which were attached to petitioners' Exhibit No. 1, which latter exhibit contained all the evidence which was introduced at the hearing of the matter of divisions between Western Trunk Line Territory and Southwestern Territory before the Commission, including the exhibits introduced before the Commission and which were attached to the said Petitioners' Exhibit No. 1 being marked Exhibits 1-A to A, 289, inclusive, but directing the clerk not to [fol. 110] include in Petitioners' Exhibit No. 1 the testimony introduced before the Commission for the reason that the said testimony has been reduced to narrative form and will be certified and forwarded in that form to the Clerk of the Supreme Court; and that the Clerk of this

Court shall be authorized and directed to certify and forward the said original exhibits, not as a part of the transcript of the record but separately therefrom.

Appellants also attach hereto a copy of a notice which has been served upon the appellees notifying them to furnish for inclusion as exhibits in this cause all the tariffs which were specified in a list introduced in evidence by the Western Trunk Line respondents as Exhibit A-9 in the said proceeding before the Commission, and ask that if the said tariffs have been so furnished by the appellees, the Court may order that the same shall be included as exhibits in the record in this cause, and shall be certified and forwarded as original exhibits, separately from the transcript of the record, to the Clerk of the Supreme Court, and that if the said tariffs shall not be so furnished by the appellees this Court shall order that such tariffs shall not be deemed or taken to be a part of the record in this cause, but that the same shall be complete without the inclusion of such tariffs therein, or that the Court may make such other order in the premises as right and justice may require.

F. H. Moore, W. E. Davis, E. T. Miller, M. G. Roberts, J. R. Bell, G. H. Muckley, H. H. Larimore, C. S. Burg, J. R. Turney, Robert Thomp-
[fol. 111] son, Solicitors for Petitioners and Ap-Appellants.

[File endorsement omitted.]

IN UNITED STATES DISTRICT COURT

PRÆCIPE FOR TRANSCRIPT OF RECORD—Filed Jan. 15, 1930

To the Clerk:

Please prepare a transcript of the record in the above-entitled cause in the matter of the appeal of The Beaumont, Sour Lake & Western Railway Company, The Fort Worth and Denver City Railway Company, The Galveston, Harrisburg, and San Antonio Railway Company, Houston and Shreveport Railroad Company, Houston & Texas Central Railroad Company, The Houston East and West Texas

Railway Company, Interrational-Great Northern Railroad Company, The Kansas City Southern Railway Company, Louisiana & Arkansas Railway Company, Louisiana Railway & Navigation Company, Louisiana Western Railroad Company, Missouri-Kansas-Texas Railroad Company, Missouri-Kansas-Texas Railroad Company of Texas, Missouri Pacific Railroad Company, Morgan's Louisiana and Texas Railroad and Steamship Company, New Orleans, Texas & Mexico Railway Company, The St. Louis, Brownsville and Mexico Railway Company, St. Louis-San Francisco Railway Company, St. Louis, San Francisco and Texas Railway Company, St. Louis Southwestern Railway Company, St. Louis Southwestern Railway Company of Texas, San Antonio & Aransas Pass Railway Company, Texas and New Orleans Railroad Company, and The Texas and Pacific Railway Company, petitioners and appellants herein, and include therein, in the order given below, the following matter, viz.

1. Record of filing of petition herein (a copy of the said petition should not be included, since a copy of the amended petition will be included).

2. Intervention of the Interstate Commerce Commission.

3. Notice of petition for leave to intervene filed by Wm. W. Wheelock, et al.

[fol. 112] 4. Petition for leave to intervene filed by Wm. W. Wheelock, et al.

5. Order allowing intervention of Wm. W. Wheelock, et al.

6. Notice of motion for leave to file amended petition.

7. Motion for leave to file amended petition.

8. Order granting leave to file amended petition.

9. Amended petition, including Appendices Nos. 1 to 5, inclusive.

10. Answer of United States to amended petition.

11. Answer of Interstate Commerce Commission to amended petition.

12. Joint and separate answer of Wm. W. Wheelock, et al., to amended petition.

13. Application and orders to refile answers.

14. Order that defendants may file instanter answer to amended petition.

15. Order regarding Interstate Commerce Commission's answer to amended petition.

16. Order designating judges and fixing date of hearing.

17. Narrative agreed upon by the parties and/or approved by the Court of evidence introduced at the hearing before the Court in this case, including evidence introduced before the Interstate Commerce Commission, which latter was introduced in evidence as Petitioners' Exhibit No. 1 at the hearing before the Court; and notice of lodgement of said narrative.

18. Opinion of the District Court.

19. Final decree or order dismissing case at cost of petitioners.

20. All journal entries, in their proper order.

21. Petition for appeal.

22. Assignment of Errors.

23. Petition for stay of enforcement of order of the Interstate Commerce Commission.

[fol. 113] 24. Order allowing appeal.

25. Order for stay of enforcement of order of Interstate Commerce Commission and acknowledgment of service thereof.

26. Appeal bond.

27. Bond on order staying enforcement of order of the Interstate Commerce Commission.

28. Supplemental bond.

29. Citation.

30. Notice to Attorney General of State of Missouri.

31. Petition for cross appeal by United States and Interstate Commerce Commission.

32. Assignment of errors on cross appeal.

33. Order allowing cross appeal.

34. Citation on cross appeal.

35. Notice to Attorney General of State of Missouri of cross appeal.

36. Order extending time to file transcript of record and docket cause.

37. Præcipe for record.

38. Notice to appellees to furnish tariffs.

39. Motion for entry of order to certify and transmit original exhibits and notice of hearing thereon.

40. Notice of lodgment of condensed statement in narrative form.

41. Any orders of this Court in the above entitled cause made subsequently to January 1, 1930 and not herein enumerated.

42. Include acknowledgments of service of documents.

43. You are further requested and directed to certify, as original exhibits, all the exhibits offered in evidence on the hearing of this cause before the Court, and all the exhibits offered in evidence on the hearing of this cause before the Interstate Commerce Commission, the latter being included as part of Petitioners' Exhibit No. 1 at the hearing before [fol. 114] the Court, but not including the transcript of testimony in said Petitioners' Exhibit No. 1, and to transfer the said original exhibits, as so certified, separately, to the Clerk of the Supreme Court of the United States, and not to include the said original exhibits in your transcript.

F. H. Moore, W. E. Davis, E. T. Miller, M. G. Roberts, J. R. Bell, G. H. Muckley, H. H. Larimore, C. S. Burg, J. R. Turney, Robert Thompson, Solicitors for Appellants.

Service of the foregoing præcipe for record and receipt of a copy thereof are hereby admitted and acknowledged upon the dates shown below.

United States of America, by Elmer B. Vollins, Spec. Asst. to the Atty. General, January 14, 1930. Interstate Commerce Commission, by Edward M. Reidy, Asst. Chief Counsel, January 13, 1930. William W. Wheelock and William G. Bierd, Receivers of the Chicago and Alton Railroad Company, Chicago and Eastern Illinois Railway Company, Chicago and North Western Railway Company, Chicago, Burlington and Quincy Railroad Company, Chicago Great Western Railroad Company, Chicago, St. Paul, Minneapolis and Omaha Railway Company, Illinois Central Railroad Company; W. H. Bremner, Receiver of Minneapolis & St. Louis Railroad Company, Minneapolis, St. Paul & Sault Ste. Marie Railway Company, Wabash Railway Company, by Frank H. Towner, January 13, 1930.

[File endorsement omitted.]

[fol. 115] IN UNITED STATES DISTRICT COURT

NOTICE TO RESPONDENTS TO FURNISH TARIFFS FOR INCLUSION IN RECORD—Filed Jan. 15, 1930

To the United States of America, the Interstate Commerce Commission, William W. Wheelock and William G. Bierd, receivers of the Chicago and Alton Railroad Company, Chicago and Eastern Illinois Railway Company, Chicago and North Western Railway Company, Chicago, Burlington and Quincy Railroad Company, Chicago Great Western Railroad Company, Chicago, St. Paul, Minneapolis and Omaha Railway Company, Illinois Central Railroad Company; W. H. Bremner, receiver of Minneapolis & St. Louis Railroad Company, St. Paul & Sault Ste. Marie Railway Company, and Wabash Railway Company, appellees:

At the hearing in the proceeding in Docket No. 15234, before the Interstate Commerce Commission, in which the orders were entered which are attached in the above entitled suit, it appears on pages 4121-4123 of the transcript of the testimony taken in the said proceeding that Mr. F. H. Towner, on behalf of the Western Trunk Line respondents in the said proceedings, substantially all of whom are intervening defendants and appellees herein, introduced in evidence a list, marked "Exhibit A-9", which purported to be a list of the tariffs containing the rates applicable on the traffic involved in this proceeding. Mr. Towner said further that he was not offering the list of tariffs in lieu of the physical introduction of the tariffs themselves because he was inclined to view these tariffs as possibly necessary in the record, but that he wished to reach an agreement with respect to the introduction of the tariffs for the reason that there were a great many tariffs involved. He said further:

"Previously I had an agreement with counsel representing the transcontinental lines that the tariffs themselves need not be offered physically in the record, but that a list might be put in the record in lieu of the tariffs themselves, with the understanding and agreement, however, that any complete record of the proceeding before the Commission, either for use of the Court or otherwise, would have to contain the tariffs themselves."

The said list was thereupon received in evidence subject to the above understanding.

[fol. 116] This notice is therefore given to you and each of you that you may furnish for inclusion in the record in the above case the tariffs specified in the said Exhibit A-9, in accordance with the said understanding.

F. H. Moore, W. E. Davis, E. T. Miller, M. G. Roberts, J. R. Bell, G. H. Muckley, H. H. Larimore, C. S. Burg, J. R. Turney, Robert Thompson, Solicitors for Petitioners and Appellants.

Service of a copy of the above notice is hereby acknowledged on the dates shown below.

United States of America, by Elmer B. Collins, Special Assistant to the Attorney General, January 11, 1930. Interstate Commerce Commission, by Edward M. Reidy, Asst. Chief Counsel, January 11, 1930. William W. Wheelock and William G. Bierd, Receivers of the Chicago and Alton Railroad Company, Chicago and Eastern Illinois Railway Company, Chicago and North Western Railway Company, Chicago, Burlington and Quincy Railroad Company, Chicago Great Western Railroad Company, Chicago, St. Paul, Minneapolis, and Omaha Railway Company, Illinois Central Railroad Company; W. H. Bremner, Receiver of Minneapolis & St. Louis Railroad Company, St. Paul & Sault Ste. Marie Railway Company, and Wabash Railway Company, by Frank H. Towner, January 9th, 1930.

[File endorsement omitted.]

[fol. 117] IN UNITED STATES DISTRICT COURT

NOTICE OF HEARING ON MOTION TO CERTIFY ORIGINAL EXHIBITS—Filed Jan. 15, 1930

To Messrs. Wm. W. Vandeventer and Elmer B. Collins, Solicitors for the United States of America; D. W. Knowlton and E. M. Reidy, solicitors for the Interstate Commerce Commission; Frank H. Towner and Chas. M. Miller, solicitors for Wm. W. Wheelock and Wm. G. Bierd, receivers for the Chicago and Alton Railroad Company et al., interveners:

Please take notice that on the 23rd day of January, 1930, at the opening of court, or as soon thereafter as counsel can be heard, counsel for petitioners and appellants in the above entitled case will appear before the Honorable Albert L. Reeves, District Judge, in the court room usually occupied by him, in the Federal Building at Kansas City, Missouri, or before such other judge as is in and there in his stead sitting, and will present to said Court their motion for an order directing the Clerk to certify to Supreme Court original exhibits, including certain tariffs, a copy of which said motion is hereto attached.

F. H. Moore, W. E. Davis, Solicitors for Petitioners and Appellants.

Service of a copy of the above notice is hereby acknowledged on the dates shown below.

United States of America, by Elmer B. Collins, Special Assistant to the Atty. Genl., January 11, 1930. Interstate Commerce Commission, by Edward M. Reidy, Asst. Chief Counsel, January 11, 1930. William W. Wheelock and William G. Bierd, Receivers of the Chicago and Alton Railroad Company, Chicago and Eastern Illinois Railway Company, Chicago and North Western Railway Company, Chicago, Burlington & Quincy Railroad Company, Chicago Great Western Railroad Com-
[fol. 118] pany, Chicago, St. Paul, Minneapolis and Omaha Railway Company, Illinois Central Railroad Company; W. H. Bremner, Receiver of Minneapolis & St. Louis Railroad Company, St. Paul & Sault Ste. Marie Railway Company, and Wabash Railway Company, by Frank H. Towner, January 9th, 1930.

[File endorsement omitted.]

Record Entry Narrative Statement of Evidence Filed Jan. 22, 1930

This day come petitioners, appellants, and file herein Narrative Statement of the Evidence, together with order approving same.

[fol. 119] In United States District Court

In Equity. No. 1363

The Beaumont, Sour Lake & Western Railway Company, The Fort Worth and Denver City Railway Company, The Galveston, Harrisburg, and San Antonio Railway Company, Houston and Shreveport Railroad Company, Houston & Texas Central Railroad Company, The Houston East and West Texas Railway Company, International-Great Northern Railroad Company, The Kansas City Southern Railway Company, Louisiana & Arkansas Railway Company, Louisiana Railway & Navigation Company, Louisiana Western Railroad Company, Missouri-Kansas-Texas Railroad Company, Missouri-Kansas-Texas Railroad Company of Texas, Missouri Pacific Railroad Company, Morgan's Louisiana and Texas Railroad and Steamship Company, New Orleans, Texas & Mexico Railway Company, The St. Louis, Brownsville and Mexico Railway Company, St. Louis-San Francisco Railway Company, St. Louis, San Francisco and Texas Railway Company, St. Louis Southwestern Railway Company, St. Louis Southwestern Railway Company of Texas, San Antonio & Arkansas Pass Railway Company, Texas and New Orleans Railroad Company, and The Texas and Pacific Railway Company, Petitioners,

vs.

The United States of America, Defendant; The Interstate Commerce Commission, William W. Wheelock and William G. Bierd, Receivers of The Chicago and Alton Railroad Company, Chicago and Eastern Illinois Railway Company, Chicago and North Western Railway Company, Chicago, Burlington and Quincy Railroad Company, Chicago, Great Western Railroad Company,

Chicago, St. Paul, Minneapolis and Omaha Railway Company, Illinois Central Railroad Company; W. H. Bremner, Receiver of Minneapolis & St. Louis Railroad Company, Minneapolis, St. Paul & Sault Ste. Marie Railway Company, and Wabash Railway Company, Intervening Defendants

Narrative Statement of Evidence—Filed Jan. 22, 1930

CAPTION

Be it remembered, That on Friday, September 20, 1929, the above-entitled cause came on regularly for hearing on the application of petitioners against The United States of America for an injunction suspending, restraining, annul-
[fol. 120] ling, and enjoining the operation of an order of the Interstate Commerce Commission made in Docket No. 15234, before the Honorable Archibald K. Gardner, Circuit Judge, the Honorable Albert L. Reeves, and the Honorable Merrill E. Otis, District Judges.

APPEARANCES OF COUNSEL

For the Petitioners: F. H. Moore, W. E. Davis, M. G. Roberts, G. H. Muckley, H. H. Larimore, C. S. Burg, their Solicitors.

For the United States: Elmer B. Collins, *their* Solicitor.

For the Interstate Commerce Commission, E. M. Reidy, its Solicitor.

For various Intervening Railroad Companies, Defendants, William W. Wheelock and William B. Bierd, Receivers of The Chicago and Alton Railroad Company, Chicago and Eastern Illinois Railway Company, Chicago and North Western Railway Company, Chicago, Burlington and Quincy Railroad Company, Chicago, Great Western Railroad Company, Chicago, St. Paul, Minneapolis and Omaha Railway Company, Illinois Central Railroad Company, W. H. Bremner, Receiver of Minneapolis & St. Louis Railroad Company, Minneapolis, St. Paul & Sault Ste. Marie Railway Company and Wabash Railway Company: F. H. Towner, their Solicitor.

[fol. 121] Whereupon the following proceedings were had and entered of record, to-wit:

The parties announced that they were ready for the hearing.

The following counsel appeared in Court for the petitioners: F. H. Moore, W. E. Davis, M. G. Roberts, G. H. Muckley, H. H. Larimore, and C. S. Burg. Mr. Elmer B. Collins appeared on behalf of The United States, and Mr. E. M. Reidy on behalf of the Interstate Commerce Commission. Mr. F. H. Towner appeared on behalf of certain intervening railroad company defendants, to-wit, the Chicago & Alton; Chicago Great Western; Chicago & Northwestern; Chicago, Burlington & Quincy; Chicago, St. Paul, Minneapolis & Omaha Railway Company; Chicago & Eastern Illinois; Illinois Central; Minneapolis & St. Louis Railroad Company; and Minneapolis, St. Paul & Sault Ste. Marie. Mr. Towner stated that the said intervening railroad company defendants are the so-called Western Trunk Lines (Tr. 1-5).

Petitioners' Testimony

Whereupon the petitioners, through their counsel, to sustain the issues in their behalf, offered testimony as follows, to-wit:

Petitioners offered in evidence the entire testimony, exhibits, and other evidence that was introduced in the proceeding in Docket No. 15234 before the Interstate Commerce Commission, and the same was received in evidence and marked by the reporter as "Petitioners' Exhibit No. 1 E. F. M." (The said testimony and other evidence contained in the said Exhibit No. 1 has been reduced to narrative form and is incorporated in this statement of evidence under the heading "Narrative Statement of Evidence Before the Interstate Commerce Commission," which immediately follows. The exhibits deemed material to the issues before the Court are either set forth in full, or in substance. In addition, all the exhibits have been certified and transmitted separately, as original exhibits, to the Clerk of the Supreme Court.)

[fol. 122] PETITIONERS' EXHIBIT No. 1

Narrative Statement of Evidence Before the Interstate Commerce Commission

BEFORE THE INTERSTATE COMMERCE COMMISSION

Docket No. 15234

In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories

Before W. A. Disque, Examiner

Chicago, Illinois, October 14, 1925,—
10:00 o'clock a. m.

Met pursuant to notice.

APPEARANCES OF COUNSEL

F. H. Towner appearing for Chicago & Alton, Chicago Great Western, Chicago & North Western, Chicago, St. Paul, Minneapolis & Omaha, Chicago, Milwaukee & St. Paul, Illinois Central, Wabash and Minneapolis & St. Louis.

J. R. Bell and G. H. Muckley appearing for Southern Pacific Lines in Texas and Louisiana, parties to investigation.

G. S. Waid appearing for Southern Pacific Lines in Texas and Louisiana, parties to investigation.

F. H. Moore, William E. Davis, E. H. Holden, G. H. Bacon, P. J. Holley and J. R. Mills appearing for the Kansas City Southern Railway Company.

R. S. Outlaw and C. C. Dana appearing for Atchison, Topeka & Santa Fe System Companies.

[fol. 123] B. H. Stanage appearing for St. Louis-San Francisco Railway Company.

J. J. Sickel and H. H. Larimore appearing for Missouri Pacific Railroad Company.

George T. Atkins, R. C. Trovillion and C. S. Burg appearing for Missouri-Kansas-Texas Lines.

Thompson, Barwise & Wharton, Arthur Collins and F. A. Swenson appearing for Fort Worth & Denver City Railway Company.

Denegre, Leovy & Chaffee, and C. H. Owen appearing for Morgan's Louisiana & Texas Railroad & Steamship Company, and Louisiana Western Railroad Company.

Thomas L. Philips appearing for Minneosta, Dakota & Western Railway Company.

William N. Webb appearing for Minnesota, Dakota & Western Railway Company.

F. C. Freiburg appearing for St. Louis-San Francisco Railway Company.

Charles W. Morrow appearing for The Texas and Pacific Railway Company.

J. D. Watson and R. D. Coleman appearing for St. Louis-Southwestern.

F. A. Barber and L. H. Strasser appearing for Wabash Railway Company.

K. L. Richmond and E. J. Schmidt appearing for Chicago & Eastern Illinois Railway Company.

F. A. Leland appearing for Southwestern Lines.

R. P. Graham and G. A. Hoffelder appearing for Chicago, Burlington & Quincy Railroad Company.

Baker, Botts, Parker & Garwood, S. G. Reed and G. S. Waid appearing for Southern Pacific Lines of Texas.

[fol. 124] F. G. Furry appearing for Illinois Central Railroad Company.

J. E. Senne appearing for Kansas, Oklahoma & Gulf Railway, H. W. Gibson, Receiver, and Kansas, Oklahoma & Gulf Railway Company of Texas.

P. F. Gault, S. H. Gillette and A. F. Cleveland appearing for Chicago & North Western Railway Company and Chicago, St. Paul, Minneapolis & Omaha Railway Company.

A. B. Enoch and F. A. Adams appearing for Chicago, Rock Island & Pacific Railway (Tr. 4068, 4069, 4070, 4071).

Proceedings

(Prior hearings had been held under the same general order of investigation, but those hearings related to the so-called Trans-Continental Divisions and the issues therein had no bearing upon the bases of divisions of joint rates between the railroads in Southwestern territory and the railroads in Western Trunk Line territory, which were made respondents in the proceeding before the Commission. The section of the investigation relating to the divisions of joint freight rates on traffic interchanged between Southwestern respondents and Western Trunk Line respondents was conducted as a separate proceeding under a separate notice of

hearing which is re-produced in Petitioners' Exhibit No. 2 in the District Court.)

COLLOQUY

Examiner Disque made the following statement at the opening of this hearing:

Further hearing will be had at this time and place in the Western Divisions Case, Docket 15234.

[fol. 125] This hearing will be limited to the divisions of the joint rates between Western Trunk Line territory and Southwestern territory.

Attorney Towner briefly stated the order in which he would introduce evidence on behalf of his clients, saying that after this evidence was completed he saw no objection to allowing some additional time to the Southwestern lines before they were required to present evidence. Counsel for certain Southwestern lines announced that they would want additional time after the Western Trunk lines had completed their case (Tr. 4075-4076).

Attorney Towner stated that there had been an unsuccessful attempt to settle the matter at issue between the parties, and made an offer on behalf of the carriers he represented to arbitrate the matter with the Southwestern lines represented at the hearing. He said the arbitration had not been considered by his clients in any great detail, but thought it would not be difficult for the parties to settle such details (Tr. 4079-4080). The Southwestern lines were not prepared to reply to his suggestion at the time (Tr. 4081-4084).

Attorney Towner stated that he had in a package before him, copies of all or substantially all the division sheets containing the divisions of the rates on the traffic involved; that if necessary he could have them duly and properly identified by a witness and put them in evidence, but that he would like to have Counsel for the Southwestern lines allow him to introduce these divisions sheets accompanied by a list of the sheets numbered so that they could be located, and also containing a description of them (Tr. 4084).

[fol. 126] There followed a discussion as to the method of introducing the division sheets, whether they were in effect

and whether settlements were actually made on the basis thereof (Tr. 4084-4085).

Mr. Towner: I believe there are some division sheets here, Mr. Examiner, possibly a good many of them, that are put out by individual roads, and not agreed to by any road except the one that put them out. Our effort has been, however, to gather them up with a great deal of impartiality, and not only put in the ones we have agreed to on our own behalf, and that nobody else has agreed to, but also those that have been promulgated by the Southwestern lines, that they have agreed to, and that we have not.

Those division sheets were put in in three books, and I hope nobody is going to ask me for a copy of them, because I do not have any; but I will furnish to everybody a list, a typewritten list of all these division sheets, with the number, the effective date, and the description. Doubtless these sheets are familiar to all the traffic men (Tr. 4085-4086).

Attorney Towner then said the list did not contain what were contended to be the effective supplements; that all of the supplements which they had were in the books referred to, but the supplements were not included in the list of division sheets. He said the list would be supplemented before the close of the hearing to show the supplements. He said the Western Trunk Lines had been unable to locate all of the division sheets and could not include all of them in the books referred to, but were contained in the list and would subsequently be proven (Tr. 4086-4087).

Mr. Towner: If it is agreeable to everybody, I can put these books in and distribute this list, and supplement the [fol. 127] list of division sheets by a similar list of all the supplements that are contained in the books; and then after you have examined it, if there is any party who wants any further information on it, or copies of individual sheets, or anything of that sort, why, we will do our best to furnish that (Tr. 4088).

Attorney Towner then agreed to offer the division sheets after they had been identified by an appropriate witness (Tr. 4089).

A. F. CLEVELAND was called as a witness for the Western Trunk Lines and being duly sworn testified as follows:

I am Assistant Freight Traffic Manager of the Chicago & North Western Railway Company. I am familiar with previous proceedings in this case, particularly the disposition made of that part of the proceeding on which hearings have been held. The Western Trunk Lines, and the trans-Missouri lines and the transcontinental lines agreed upon a compromise basis of divisions. As a part of the compromise of the trans-Missouri divisions, embracing all points in the States of Nebraska, Kansas, Wyoming, Colorado and a portion of Utah and Idaho, they compromised the divisions to and from points in Oklahoma on the lines of the Atchison, Topeka & Santa Fe, the Chicago, Rock Island & Pacific and the Missouri Pacific and that basis became effective the first of last July. The settlement with respect to the Oklahoma divisions was inconsequential or small in comparison with the major matter under consideration—the trans-Missouri divisions (Tr. 4089-4092). In reaching the settlement with respect to the Oklahoma divisions, separate, independent consideration was not given to those divisions as such (4091).

Mr. Larimore: What bearing, Mr. Towner, has the testimony offered by the witness, upon the issue here?

Mr. Towner: Well, Mr. Larimore, am I obliged to furnish pictures with all of this testimony?

Now, Mr. Cleveland is on the stand here, testifying to a fact. Counsel are at liberty to draw any conclusion from that that they want to. I know what I am going to do with it (Tr. 4092).

[fol. 128] Examiner Disque: Now, do I understand that those divisions which were settled to and from Oklahoma, are withdrawn from this case?

Mr. Towner: Yes (Tr. 4093).

Cross-examination:

In referring to the settlement of the Oklahoma divisions as inconsequential, I had in mind the relative tonnage involved in that and the trans-Missouri territory. I did not try to belittle Oklahoma (Tr. 4094).

Attorney Towner then stated that the purpose of this witness's testimony was to show that the settlement should not be interjected into this case; that no line party to the settlement could now question it in good faith. He stated that his clients considered they were bound by the settlement. Oklahoma is included in Southwestern territory. That settlement about which I testified applied through Kansas City alone (Tr. 4095.)

S. G. GRACE was thereupon called as a witness on behalf of the Western Trunk Line respondents and testified as follows:

I am Assistant General Freight Agent of the Chicago, Milwaukee & St. Paul Railway Company. I refer to a map identified as Exhibit No. 1-A, which shows the merchandise percentage groupings applied in connection with the divisions of joint rates between Oklahoma and Western Trunk Line Territory via Kansas City, Mo. Those percentages and groupings are shown in Western Trunk Line division sheet 315-A (Tr. 4097-4098).

The figures shown in connection with the Oklahoma grouping represent the percentages applying south of Kansas City on traffic to or from Chicago territory, and on traffic to or from Mississippi River-St. Louis territory. In Western Trunk Line territory there are six groups as outlined in the map; that is, the Chicago group, Mississippi River-St. Louis group; Peoria group; St. Paul group; Duluth group; and Chicago plus group. On the Peoria [fol. 129] group the same divisions are applicable as to and from the Chicago group. To and from the St. Paul and Duluth groups, where the rates are on the Chicago basis or higher, lines west of Kansas City receive Chicago revenue. Where rates are on Peoria basis or higher, but less than Chicago, lines west of Kansas City receive Peoria revenue. Where rates are on the St. Louis basis or higher, but less than Peoria basis, the lines west of Kansas City receive St. Louis revenue (Tr. 4098). Where rates are less than at St. Louis, lines west of Kansas City receive St. Louis percentages of the actual rates.

The figures shown in connection with the Oklahoma grouping represent the percentages applying south of Kan-

sas City on traffic to or from Chicago territory and on traffic to or from Mississippi River-St. Louis territory.

(The Witness here briefly described the six Western Trunk Line groups.) (Tr. 4098.)

The Chicago group comprises the territory in Wisconsin and Michigan north of the Chicago group, from and to which rates are usually on basis of arbitraries over the Chicago group rates, and from and to that territory the lines west of Kansas City receive Chicago revenue (Tr. 4099).

The map shows two St. Louis groups. This is done only to divide the territory east and west of the Mississippi River, and has no significance as to a difference in percentages to and from this group.

The legend on the map explains quite fully what it is intended to cover. These percentages do not apply to all traffic, some of the important exceptions being lumber, petroleum and its products northbound, live stock, cement, hard coal, grain, salt, potatoes, south bound, and a few other miscellaneous rates (Tr. 4099).

The percentage figures show the divisional basis in effect [fol. 130] as *as* to Oklahoma on all lines except the Atchison, Topeka & Santa Fe, the Chicago, Rock Island & Pacific Railway, the Gulf, Colorado & Santa Fe Railway, and the Missouri Pacific Railroad, those lines having granted a 14 per cent. increase in revenue to the lines east of Kansas City, effective July 1, 1925 (Tr. 4099).

(Exhibit 1-A was received in evidence. In addition to the description given by the witness, the exhibit, which is a map of the entire United States, shows the lines of the principal railroads of the United States.)

Exhibit No. A-2 is a compilation showing the percentages applicable between points in Western Trunk Line territory and representative points west of the Missouri River. The exhibit deals with the division of the through rates, applying to or from points in Nebraska, Kansas, Colorado, Wyoming, Idaho, Montana and Oklahoma, but my remarks will be confined entirely to the exhibit as it deals with the divisions in effect to or from Oklahoma (Tr. 4101-4102).

[fol. 131] The exhibit also shows pages 6 to 9 and 17 to 21, 28 to 32, and 39 to 44, percentages applicable in dividing joint through rates on merchandise and live stock to and

from representative Oklahoma points, and also shows the percentages that would apply on the basis of a mileage prorate if the short lines are used, and on the basis of a mileage prorate using the average mileage of all of the lines (Tr. 4102). This portion of the exhibit is only applicable in connection with the Oklahoma points of origin, rates and divisions (4102).

Exhibit A-3 shows the merchandise percents in effect June 30, 1925, and what they would be under a 14 per cent increase to the Western Trunk Lines (Tr. 4103).

By mileage prorate average I mean an average of all lines' mileage. If there are five lines into a point with various mileages, take the average of all of them (Tr. 4103-4104).

(The above mentioned pages of Exhibit A-2 and Exhibit A-3 were received in evidence. In addition to the matters described by the witness, Exhibit A-2 shows the divisions applicable to the joint rates on lumber or oil between certain points in Oklahoma and points in the Western Trunk Line groups.)

Exhibit A-4 shows the through class rates and a number of representative commodity rates in effect to or from representative points in Oklahoma and Missouri, together with the divisions applicable thereto.

It also shows the local rates to and from Kansas City, the present revenue accruing to the lines east and west of Kansas City, the percentage relation that that revenue bears to the local rates east and west of Kansas City, what the divisions would be on a basis of a mileage prorate through from Kansas City, using the short line mileage to and from that gateway (Tr. 4105).

[fol. 132] I have shown the local rate merely to show the basis for arriving at the percentage which the revenue under the existing divisions is of the local rates (Tr. 4106). The divisions shown on Exhibit A-4 are the current divisions (4106).

(Exhibit A-4 was received in evidence. That exhibit shows that a mileage prorate would increase the divisions to the Western Trunk Lines in almost all instances, and that a mileage prorate would accord to the Western Trunk Lines'

revenue in excess of the local rates in a great many more instances than it would to the Southwestern lines.)

The examiner here inquired whether or not the witness was requesting more than the local rate to the Missouri River; to which the witness replied that the present division sheet did not limit the divisions to the local rates, that the Exhibit showed a mileage prorate but no such division was in effect (Tr. 4108-4109).

Mr. Towner: And besides that, Mr. Examiner, Mr. Grace has not asked for anything.

Mr. Muckley: Would you limit your local rate as maximum, then?

Mr. Towner: Well, I will confer with you about that. I would not want to limit myself this early in the hearing.

Cross-examination:

The new percents applicable to points in Oklahoma where the 14% increase was made effective are shown in Exhibit A-4 (Tr. 4109-4110).

The distance from Iron Mountain, Michigan would not be representative of the average distance in the group in which it is situated, but the distance from Red Wing and Man-
[fol. 133] kato would be. The selection of Rhinelander and Eau Claire, Wisconsin, to which a relatively small part of this traffic would go, does not result in a representative weighted average mileage from the Chicago group (Tr. 4110-4111).

Redirect examination:

Eau Claire is in the Chicago plus group. Mankato is in the St. Paul group, substantially southwest of St. Paul (Tr. 4111).

J. A. Behrle was thereupon called as a witness for the Western Trunk Line respondents and testified as follows:

"I am Freight Traffic Manager for the Chicago & Alton Railroad Company and have been connected with that road and the roads with which it has been associated during the past 22 years, spending that entire time in the Freight Traffic Department. I am familiar with the rates and divisions

involved in this case and have direct charge of that subject for the Chicago & Alton" (Tr. 4112-4113).

The three books referred to by Counsel contain, insofar as I have been able to secure them, division sheets specifying the divisions of rates applying on the traffic involved in this hearing. Some of the division sheets involved are missing. We made an effort to secure the effective supplements as well as the original issues and the books contained the supplements where we were able to secure them. Some of the supplements are missing (Tr. 4113-4114).

I have a list of the division sheets but do not know whether the list shows all of the missing supplements. Some of these division sheets are issued by other lines and copies are not sent to me. Subject to the exceptions that I have mentioned, the three books contain all of the division sheets and supplements thereto (Tr. 4114-4115).

[fol. 134] Mr. Towner: I would like to say, Mr. Examiner, that we have not been able to obtain more than one complete set of the division sheets that we have been able to get. I would like to offer in evidence, these three books, without furnishing a copy to the other respondents, and I will hereafter distribute a printed list of the sheets themselves, so that they may be identified.

May they be received, Mr. Examiner?

Exam. Disque: All right. That list will show the supplements as well as the division sheets themselves, will it?

Mr. Towner: Yes; if it does not now, we will arrange it so that it will. I will offer these books in evidence at this time as exhibits A-5, A-6 and A-7.

Mr. Larimore: I think, Mr. Examiner, that these division sheets should go in subject to verification as to their correctness, or lack of completeness, by all of the respondents.

Mr. Towner: I have no objection to there being any reservation made, except that, of course, the division sheets that we have offered, if they are the actual division sheets in effect, should be received in evidence even though they may not include all of the division sheets.

Attorney Towner then explained that the witness would thereafter refer to the known division sheets and supplements which he had been unable to obtain, giving the numbers thereof and describing them (Tr. 4116).

The following discussion occured:

Mr. Outlaw: Mr. Examiner, the basis of our objection there, and the possible reservation, was that very question as to whether they were in effect.

Mr. Towner: Well, if they are not in effect, of course [fol. 135] anything that is not in effect should be eliminated.

Mr. Burg: Mr. Towner, I had this though about it: How do we determine whether all of those division sheets which are contained in the exhibit are the division sheets under which the actual settlements are now made?

Upon being questioned by Attorney Towner as to whether division sheets contained in the books offered evidence as exhibits A-5, A-6 and A-7 were the division sheets upon which the revenues were actually divided in all cases, the witness said that he must answer the question with some reservation, because it would be impossible, without investigating each and every case of settlement, to say whether that was an absolute fact; that the division sheets in the books referred to formed the basis for the divisions, although in some cases they may be in dispute; but that, so far as he knew, the division sheets contained in the exhibits, form the basis for the division of the revenues, subject to the issuance of supplements and division sheets, of which the witness had no knowledge, of which he had never been informed, and of which he was unable to obtain copies (Tr. 4116-4117).

Mr. Outlaw: Mr. Examiner, might they be admitted in evidence, as we want them to be, with the understanding that the southwestern lines are not precluded by any showing in said sheets, on the point that the divisions therein stated are necessarily agreed to by the southwestern lines, or that they are in any way committing themselves to an acquiescence that these sheets do state the correct basis?

Exam. Disque: All right.

[fol. 136] Mr. Towner: Well, you would not need any reservation of that kind, Mr. Outlaw. The division sheets on their face, what they show.

Now, if you are able to adduce proof that the divisions of the rates are not made in accordance with these sheets,

and show that they are divided in some other way, of course that is always——

Mr. Larimore: The point I asked the witness about was his testimony that these formed the basis for divisions, which is the using of a general term. Now, I made it definite in that the respondents, in considering this testimony, might draw the conclusion that there may be instances where the revenues divided otherwise than as shown by the division sheets, although the division sheets might in fact form the basis for the present divisions of the revenue (Tr. 4118-4119).

(The three books of division sheets marked Exhibit A-5, A-6 and A-7 were offered in evidence and the examiner stated: "The exhibits will be received as what the division sheets are.")

The witness continued:

I have prepared a list of the division sheets contained in exhibits A-5, A-6 and A-7. The list also contains the division sheets of which we had knowledge, but of which we were unable to obtain copies. It does not contain a list of the effective supplements. I will undertake to supplement the list by a list showing the effective supplements to division sheets.

(The list referred to was received in evidence as exhibit A-8.)

[fol. 137] I have also prepared a list of the tariffs containing the rates applicable on the traffic involved (Tr. 4121).

Exam. Disque: I understand that this next exhibit, A-9, is a list of the tariffs, of the rates which you seek to have divided in this proceeding on a basis different than now applies.

Mr. Towner: Is that correct, Mr. Behrle?

The Witness: Yes, sir.

Attorney Towner said that he was not offering the list of tariffs in lieu of the physical introduction of the tariffs themselves because he was inclined to view these tariffs as possibly necessary in the record, but that he wished to

reach an agreement with respect to the introduction of the tariffs for the reason that there were a great many tariffs involved (Tr. 4121-4122).

The following is a verbatim quotation from the record before the Commission:

Previously I had an agreement with counsel representing the transcontinental lines, that the tariffs themselves need not be offered physically in the record, but that a list might be put in the record in lieu of the tariffs themselves, with the understanding and agreement, however, that any completed record of the proceeding before the Commission either for use in court or otherwise, would have to contain the tariffs themselves.

Now, I would like to make that same agreement with counsel for the southwestern lines, and offer the tariffs themselves purely as a formality.

Mr. Outlaw: That stipulation is agreeable to the clients which I represent.

[fol. 138] Mr. Towner: Yes, you agreed to it before, Mr. Outlaw. "

Mr. Burg: There is no objection, for the clients I represent.

Mr. Larimore; I see no objection.

Exam. Disque: All right. Unless somebody objects, it will be so understood. I hear no objection, and exhibit A-9 will be received in evidence (Tr. 4122-4123).

(Exhibit A-9 was received in evidence.)

[fol. 139] Exhibits A-5, A-6 and A-7 contain blank certain sheets which bear the number and a general description of division sheets. The numbers run consecutively beginning with No. 1 in Book 1. The division sheets and supplements which we do not have and the page numbers on which they are referred to are as follows:

Page 118—Sheet No. 1-A, Southwestern Lines division sheet No. 37, issued by the Kansas City Southern Railway, applying on rice and rice products.

Page 189 (Book 2) division sheet No. 8731-B, issued by the Missouri Pacific, to Southwestern lines tariff No. 102, applying on sulphur and brimstone, straight or mixed carloads.

Page 255 (Book 2), percentage sheet, Port Arthur route No. 158-B, issued by the Kansas City Southern Railway, showing basis for dividing rates between Chicago, Milwaukee, Cincinnati, Louisiana, Missouri, Shreveport, Alexandria, Pineville, West Monroe, and Monroe, Louisiana, via St. Louis and East St. Louis.

Page 256 (Book 2), Kansas City Southern percentage sheet, P. A. R. No. 188-B, showing basis for dividing rates between St. Louis, East St. Louis, Chicago, Milwaukee and stations in defined territories, and Fort Smith, Arkansas, via Kansas City.

Page 260 (Book 2)—Kansas City Southern percentage sheet P. A. R. No. 85-A.

Page 273 (Book 2) Kansas City Southern division sheet No. 1-C, to tariff 254. We have not been able to secure a copy of the original division sheet, although we have Supplement 4 thereto (Tr. 4123-4124-4125-4126).

[fol. 140] The division sheets to which I am now referring are not contained in exhibits A-5, A-6, and A-7. Those exhibits may contain division sheets which afford a basis for the division, however. When we have a shipment between points to which we do not have a division sheet, some other division may be used as a basis. For example, on a shipment from the Missouri Pacific, we may not have a Missouri Pacific division sheet, or we may have a division sheet of another line serving the same general territory. In that event, the division sheet which we had might be used as a basis for the division, via the road upon which the shipment moved (Tr. 4126-4127-4128).

Attorney Towner thereupon made a request that the issuing road put into record at some time during the course of the hearing a copy of the division sheets and effective supplements thereto which the witness enumerated as not being contained in exhibits A-5, A-6 and A-7 (Tr. 4128).

Witness Behrle continued:

Page 370 (Book 2) refers to St. Louis-San Francisco division sheet No. 14-C, showing the basis of divisions of rates between points of St. Louis, Chicago, Cincinnati, Milwaukee, Louisville, Nashville, Omaha, Davenport, Fox River district, and defined territory and Alexandria, Bos-

sier City, Boyce, Monroe, West Monroe, Pineville, Valley Junction, Shreveport and Shreveport Junction, Louisiana. This division sheet is not in the exhibits referred to. Every other sheet which is listed on exhibit A-8 is in the three books except those which I am specifically describing. I am now dealing with the division sheets which are not in the books (Tr. 4128-4129).

[fol. 141] Witness, continuing with the description of said division sheets:

Page 373 (Book 2)—St. Louis-San Francisco division basis No. 216. We have a copy of Supplement 4 to this division sheet, in which is stated the basis for the division of rates on traffic between points in defined territories and stations in Arkansas, via St. Louis, East St. Louis, Thebes, Memphis and Kansas City.

Page 386 (Book 2)—sheet No. 1, St. Louis-San Francisco division freight tariff No. 233-F, applying on potatoes and other vegetables carload from stations in Arkansas, Louisiana, Missouri and Oklahoma to points in Colorado, Illinois and Indiana. It takes in all of the Western Trunk Line states.

Page 387 (Book 2) refers to St. Louis-San Francisco division basis No. 378-D which contains divisions of the rates on cantaloupes and muskmelons from stations on the M. & N. A. in Arkansas, Missouri and Oklahoma to points in Illinois and western states.

Page 395 (Book 2) refers to St. Louis-South Western Railway percentage sheet No. 1500, containing divisions of rates on traffic between points in defined territories, and Shreveport, Bossier Junction, Monroe, West Monroe, Alexandria, Pineville, Hurd, Boyce, Minden and Sibley, Louisiana (Tr. 4129-4130).

By Mr. Coleman:

Q. Mr. Behrle, that division sheet has been cancelled by 1930, and reference is made to that on the last page of your exhibit, the sixth item on the last page of your exhibit.

The witness, continuing: That is one of those that we have not got, so that accounts for the fact that we have shown both of them.

[fol. 142] Page 441 (Book 3) refers to Orient division basis No. 187 series, showing divisions on cottonseed cake meal and hulls from points in Oklahoma to points on the Chicago, Milwaukee & St. Paul Railroad via Kansas City. We have Supplement A to this division sheet but were unable to secure the original.

Page 442 (Book 3) refers to Kansas City Southern division sheet No. 5-C, to Southwestern Lines tariff No. 114-A, applying on cottonseed products from points in Arkansas, Louisiana and Oklahoma to points on the Chicago, Milwaukee & St. Paul Railroad, in Iowa, Minnesota and Missouri. We were not able to secure copy of this division sheet.

Page 443 (Book 3) refers to division sheet No. 31 to Southwestern lines tariff 40 series, applying on cottonseed cake meal and hulls from points in Arkansas, Oklahoma, Louisiana and Texas to stations on the Minneapolis & St. Louis. We were unable to secure a copy of this division sheet.

Page 464 (Book 3) refers to Southwestern Lines division sheet No. 44, Illinois Freight Association division sheet No. 10, applying on cottonseed cake meal and hulls, tank bottoms, soap stock, cottonseed oil and articles taking the same rates from points in Illinois Freight Association territory in Illinois, Indiana, Iowa, Missouri and Wisconsin, via Thebes, Gale, Cairo or East St. Louis.

Page 465 (Book 3) refers to Kansas City, Fort Scott and Memphis percentage sheet No. 980, containing divisions between Mississippi River points, Chicago, Peoria and points on the Kansas City, Clinton and Springfield, and Kansas City, Fort Scott and Memphis Railroad via Kansas City (Tr. 4131-4132).

[fol. 143] Page 466 (Book 3) refers to P. A. R. division sheet No. 155-B on the Kansas City Southern Railway, containing divisions between New Orleans and points taking the same rates, and stations in Illinois, Iowa, Minnesota, Missouri and other western states (Tr. 4132).

Here followed a discussion as to whether or not divisions of rates to and from New Orleans were involved in the case. Attorney Muckley stated that the notice of hearing referred only to points west of the Mississippi River, but

that there are some points west of the river that take the same rates as New Orleans (Tr. 4132-4133).

Exam. Disque: Well, perhaps there are percents which apply to New Orleans that would reach those points, even though they are in the Southwest. Do you want that involved in this case, if they are New Orleans per cents? Technically, west of the river they are in (Tr. 4133).

The witness, continuing: I think that the New Orleans percents are in the case, insofar as they apply to and from points west of the Mississippi River.

Page 467 (Book 3) refers to Missouri-Kansas-Texas division sheet No. 3491-B, applying on classes and commodities between stations on the Midland Valley Railroad and stations on the Missouri-Kansas-Texas Railway and connections.

Page 468 (Book 3) refers to Missouri-Kansas-Texas Railway joint division sheet No. 3480, applying on classes of commodities between St. Louis, Kansas City, points in defined territories, and Texarkana and Jefferson, Texas.

Page 469 (Book 3) refers to St. Louis-Southwestern percentage sheet No. 1450, applying on traffic between points [fol. 144] in defined territories and stations on the St. Louis-Southwestern and connections in Arkansas and Louisiana, via East St. Louis, Bixby, Cairo, Thebes, St. Louis, Kansas City or Memphis.

Page 470 (Book 3) refers to St. Louis-Southwestern percentage sheet No. 1930, applying on traffic between points in defined territories and Shreveport, Bossier City, Monroe, West Monroe, Alexandria, Pineville, Hurd, Boyce, Minden, Sibley, and also other stations in Arkansas and Louisiana.

Page 472 (Book 3) refers to Missouri Pacific division sheet No. 26-C, applying on classes and commodities between Alton, Edwardsville, Wood River, Illinois, and points in that vicinity, and points in Missouri, Oklahoma and other western states via East St. Louis (Tr. 4133-4134).

That completes the list of the division sheets which are not contained in the three books, but to which reference is made in the list which has been marked as exhibit A-8 (Tr. 4134).

There followed a discussion as to whether the Southwestern Lines should furnish copies of the missing division sheets. It was pointed out by Attorney Davis that in some instances the issuing line might have only one copy, but Attorney Towner said that if such a situation should arise, it would be necessary for the Western Trunk Lines to find some other way of putting them in evidence. Attorney Burg and Attorney Davis indicated that they would attempt to co-operate in furnishing copies of the division sheets of the Missouri-Texas lines and the Kansas City Southern, which had just been referred to by Witness Behrle (Tr. 4135-4136-4137).

Attorney Towner thereupon made the following statement:

That the lines that I represent in this proceeding are making an issue of the divisions of the through rates applying only through those junctions north of the Ohio River and not south thereof. That would be through Thebes, St. Louis, Kansas City and any intermediate junctions.

[fol. 145] The following colloquy is quoted verbatim from the transcript:

Exam. Disque: Not via the Illinois Central to Memphis and Cotton Belt or Missouri Pacific beyond?

Mr. Towner: No, sir.

Mr. Larimore: How about Cairo?

Exam. Disque: You cannot cross the river.

Mr. Furry: Mr. Examiner, I would also like to modify my appearance, as representing the Illinois Central via crossings north of the Ohio River.

Mr. Towner: I assume that is plain to everybody.

Exam. Disque: All right. Of course, if the other side wants to bring in the divisions via any other route that is another matter.

Mr. Towner: Of course, I have no control over them. All I say is that we are not raising those issues.

Exam. Disque: All right (Tr. 4139-4140).

Witness Behrle, continuing: I have prepared several statements and maps which show illustration of divisions between the Southwestern territory and Illinois and western trunk line territories (Tr. 4140).

Exhibit A-10 is a map illustrating the divisions to and from Texas points. The so-called merchandise percentages represent the percentages used in the division of revenues on all traffic except the commodities which have been subjected to individual treatment and on which specific divisions generally stated in cents per hundred pounds or in cents per ton are applied (Tr. 4140).

(Exhibit A-10 was received in evidence. In addition to the matters referred to by the witness, the map also shows the lines of the principal railroads in the states of Illinois, Wisconsin, Minnesota, South Dakota, Nebraska, [fol. 146] Kansas, Oklahoma, Missouri, and portions of North Dakota, Arkansas, Kentucky and the upper peninsula of Michigan.)

Substantially all divisions between Illinois, Wisconsin, Missouri, Iowa and Minnesota and points in Texas, also Texarkana, Arkansas-Texas, are contained in southwestern lines' division sheet No. 40, issued by F. A. Leland, agent of the southwestern lines and bearing effective date of Nov. 15, 1924. The so-called merchandise percentages, which are the basic divisions, are contained in items 150 to 360 inclusive and in items 1250 to 1265 of this division sheet (Tr. 4141).

Exhibit A-10 was prepared for the purpose of setting out as clearly and briefly as possible, the divisions applicable between Texas and the Northern states which I have named via East St. Louis. Exhibit A-10 is a map headed, "Grouping on Texas traffic via East St. Louis." There is attached a statement amplifying information on the map. The various groups in western trunk line and Illinois rate committee territories have been outlined in blue pencil on the map. The red figures show the item numbered in southwestern lines division sheet No. 40, in which the divisions north and south of East St. Louis appear. There is shown in purple a divisional basis north and south of East St. Louis. The territorial grouping is generally governed by the rate grouping appearing in Southwestern Lines Territorial Directory No. 1-G, F. A. Leland's I. C. C. 1665, reference to which is made in item 5 of F. A. Leland's division sheet No. 40 (Tr. 4141-4142).

These divisions are somewhat involved and it is therefore not possible to describe the divisional situations in detail, but the map and attached statement and the further [fol. 147] explanation which we will make will, we believe, give an accurate and clear description, insofar as it is possible to present one (Tr. 4142).

Item No. 150 includes divisions between Alton and Edwardsville, Illinois, and Texas points, on which the lines north of East St. Louis receive 15 per cent of Texas common point rates or less.

Item 160 covers divisions between points in Illinois in St. Louis territory north of East St. Louis, Granite City, and Venice, not including Alton and Edwardsville. On this traffic, the lines north of East St. Louis receive 18.5 per cent on the Texas common point rates and 19 per cent of the rates on traffic to and from Houston and Galveston and points taking the same rates (Tr. 4143).

The division is made via East St. Louis, except that in some cases to group No. 200 and group No. 165, the divisions are in effect via St. Louis. Generally speaking, to the balance of the territory, the divisions of the through rates are made via East St. Louis. I don't know as to what extent these divisions are agreed divisions, but the term "agreed divisions" and "merchandise percentages" are used in about the same sense. These divisions are generally accepted, but I don't know as to the agreement that was made. They have been in effect for years (Tr. 4143-4144).

The initials T. C. P. in the group containing number 180 in red represents Texas common points and initials H. G. refers to Houston & Galveston and points taking the same rates (Tr. 4144).

[fol. 148] Item No. 105 includes Illinois points south of East St. Louis and north of Cairo. On business between this territory and Texas, the proportion is 18 per cent of the Texas common point rate or less (Tr. 4144).

The group comprising items 215, 220, 225 and 245 is commonly known as Chicago territory. Under item No. 220, the lines north of East St. Louis received 20 per cent. An exception to this division is shown in items 245 on traffic originating on the Chicago & North Western, Chicago, Harvard & Geneva Lake, Chicago, Milwaukee & St. Paul, and

Minneapolis, St. Paul & Sault Ste. Marie. The same exception appears for the C. M. & G. in item No. 215. On traffic originating in Chicago territory and delivered to connecting lines at Chicago or Chicago junctions, these lines receive 15 per cent, the remainder south of Chicago or Chicago junctions being subdivided on Chicago percentages. This is on southbound traffic and does not apply on traffic originating in the Chicago switching district. (Tr. 4145.)

On traffic to and from points on the Chicago & North Western in Chicago territory in Illinois or Milwaukee territory, not including Chicago proper, via Barr, Illinois, a junction of the Chicago & North Western with the C. P. & St. L., via Peoria, and C. P. & St. L., C. & A., Illinois Central, or Illinois Traction System, or Benld, Illinois, and the Illinois Traction System, the lines to East St. Louis receive 27½ per cent. On Chicago proper traffic the lines north of East St. Louis receive 20 per cent (Tr. 4145-4146).

[fol. 149] On traffic from and to Milwaukee territory, the lines north of East St. Louis receive 20 per cent on traffic classified in first, second and third classes and 22 per cent on all other class rates, except that on business from points on the Chicago & North Western, Chicago, Harvard & Geneva Lake, Chicago, Milwaukee & St. Paul, and Minneapolis, St. Paul & Sault Ste. Marie, on which traffic when moving via Chicago and Chicago junctions, the originating lines receive 15 per cent and the balance is subdivided via East St. Louis on Chicago percentages in the same manner heretofore described. That basis applies only on southbound traffic. There is an exception to this on business to or from points on the Chicago & North Western via Peoria, Barr and Benld, where the combined proportion of the lines north of East St. Louis is 27½ per cent (Tr. 4146).

The Fox River territory is north and east of Milwaukee territory. In the division of rates from and to this group, the lines south of East St. Louis receive the same revenue as on traffic to and from Milwaukee. The excess, if any, over the Milwaukee rate accrues to lines north of Milwaukee. A similar basis of divisions applies from the territory north of Fox River territory, identified on exhibit A-10 as number 340 in red (Tr. 4147).

On traffic to and from the Omaha-Davenport territory, the lines north of East St. Louis receive 17 per cent of the Texas common point rate. On traffic between points in Missouri, north of the Missouri River and east of the M. K. & T. from New Franklin over to Hannibal, via St. Louis, the lines north of St. Louis receive 15 per cent. This same allowance also applies to or from Jefferson City, Mis- [fol. 150] souri, which is located on the south bank of the Missouri River (Tr. 4147).

On traffic to or from Missouri points north of the Missouri River and west of the M. K. & T. from New Franklin and Hannibal and points on the C. & A. south of the Missouri River, the lines west of St. Louis are allowed 20 per cent. The same allowance applies to or from stations on the C. B. & Q. east of Kansas City and St. Joe, west of Hannibal, and south of Laclede (Tr. 4148).

On traffic between Muscatine, west of Keithsburg, Burlington, Fort Madison, Davenport, Rock Island and Texas common points, the lines north of East St. Louis receive 18.5 per cent, except that from points taking Houston-Galveston rates the allowance is 19 per cent. These points are not shown as a group on exhibit A-10, but the particular points are outlined in red and the item numbers in the division sheets which apply are shown opposite these points (Tr. 4148).

On traffic between Quincy, Keokuk and Texas common points, the allowance north of East St. Louis is 17 per cent and when to and from Houston, Galveston and points taking the same rates, is 18 per cent. On traffic between Texas common points and points shown in the territory identified by numbers 290 and 300 in red, on Exhibit A-10, the lines north of East St. Louis receive 25 per cent.

On business to or from points in the group numbered 315 in red, the lines north of St. Louis receive 20 per cent, and on business to and from points in group No. 310, the lines north of East St. Louis receive 18 per cent.

[fol. 151] On traffic to and from points in group No. 305, they receive 20 per cent and on business to or from points in group 295, 22 per cent. The six groups designated by numbers 290, 295, 300, 305, 310 and 315 are located in what is known as Chicago-Omaha-Davenport territory (Tr. 4149).

I believe that that sets forth the divisional situation via East St. Louis. With reference to my statement that to certain territory the roads south of East St. Louis, or St. Louis, receive Milwaukee revenues and lines north take excess, if any, over the Milwaukee rate, I understand in a general way that there has been a reduction in the rates to and from that Northern territory, from and to Texas points; so to the extent that that is a fact, the earnings of the lines north of Milwaukee are reduced that much.

Exhibit A-11 is a map headed "Division grouping on Texas traffic via Kansas City."

The boundary lines of the various division groups in western trunk line and Illinois rate committee territories, are shown in blue and the item numbers in F. A. Leland's southwestern lines division sheet No. 40 are shown in red figures.

A statement elaborating the information shown on the map is attached to the map. This map is comparable to exhibit A-10 (Tr. 4150-4151).

The division of the lines east of Kansas City on traffic to and from St. Louis territory is 20 per cent.

On traffic between points in the Chicago group, the lines north of Kansas City receive 30 per cent and the same allowance is made on traffic to and from points in Milwau-
[fol. 152] kee territory, except that on business from points on the C. M. & C. as shown in item 215 and points on the Chicago & North Western, Chicago, Harvard & Geneva Lake, Chicago, Milwaukee & St. Paul, and Minneapolis, St. Paul & Sault Ste. Marie, as shown in item number 245, the lines north of Chicago or Chicago junctions receive 15 per cent, the remainder south being subdivided on the Chicago percentages. On traffic originating on the C. M. & G., and moving via the A. T. & S. F. Railway, this arrangement applies only where the Santa Fe receive the haul both east and west of the Missouri River. Where it receives haul only west of the Missouri River the lines east of Kansas City are restricted to 30 per cent (Tr. 4152).

On traffic between Texas common points and Chicago and Milwaukee rate territories, an allowance of 20 per cent is made to and from Marshalltown. The lines between Marshalltown and Kansas City receive arbitraries rang-

ing from 25.7 cents on first class to 6.1 cents on class E, with the following special divisions on commodities:

Agricultural implements, 12.9 cents.
Bagging and ties, 7.6 cents.
Window glass, 9.1 cents.
Wrapping paper, 9.1 cents.
Starch, 12.1 cents.
Wire and nails, 12.1 cents.

This arrangement is not always observed, since the Southwestern lines often insist upon the application of the direct divisions via Kansas City (Tr. 4152).

[fol. 153] A somewhat similar arrangement is in effect from Chicago and Milwaukee territories via Council Bluffs. The lines north or east receive 30 per cent and the lines between Council Bluffs and Kansas City, the arbitraries previously referred to (Tr. 4152-4153).

Under items numbers 275 and 270, on traffic between Muscatine, West Keithsburg, Burlington, Fort Madison, Davenport, Rock Island and Texas common points, the lines north of Kansas City receive 23.5 per cent. These points are designated by red figures on exhibit A-11, but are not shown as grouped. Between the same points and the Houston-Galveston rate group the lines north of Kansas City receive a division of 25 per cent (Tr. 4153).

Between Quincy, Keokuk and Texas common points, the lines north of Kansas City receive 22 per cent and between those points and the Houston-Galveston group they receive 23 per cent.

To or from points in the Chicago, Omaha and Davenport territories, the lines on and north of Council Bluffs receive 25 per cent, except to and from points in Iowa and Missouri south of the Rock Island, Grinnell to Council Bluffs and on the west of the M. & St. L., Grinnell to Centerville, they receive 20 per cent. The balance of the rate is subdivided by allowing between Omaha, Council Bluffs and Kansas City, the arbitraries to which I have heretofore referred (Tr. 4153-5154).

On traffic from points in group No. 310, via Council Bluffs, the lines east of Council Bluffs receive 20 per cent.

[fol. 154] On business from or to Fox River territory, via Marshalltown, the lines south receive 78 per cent of the

Milwaukee rates, and via Council Bluffs or Omaha, 70 per cent of the Milwaukee rates (Tr. 4154-4155).

On business between Texas and Fox River territory on west of the line of the M. & St. L. from Mason City to Minneapolis, the lines south of Council Bluffs receive 80 per cent of the Milwaukee rates.

The divisions on traffic between Fox River, Chicago, Omaha, and Davenport territories are nullified to some extent by the exception appearing in item 355 of southwestern lines division sheet 40 which provides that in subdividing the proportions south of Omaha or Council Bluffs, the arbitraries previously referred to will apply, except that on traffic from points reached by the Chicago, Milwaukee & St. Paul, Chicago, Rock Island & Pacific and Chicago, Great Western, the southwestern lines will demand from Kansas City the same revenues as on traffic reaching that gateway via the direct lines (Tr. 4155).

(Exhibit A-11 was received in evidence.)

Referring to the group bearing red figures 255, it includes Monmouth, Galesburg, Bushnell, and a number of points that are in what is known as Omaha-Davenport rate territory (Tr. 4156).

There followed a discussion as to whether or not the witness's testimony was incorrect concerning these points. The witness stated that his grouping on the map was not an error, but there were little exceptions to the groupings which he could not point out on the map and that his idea [fol. 155] was to set out the general basis as nearly as he could, whereupon Attorney Outlaw suggested that this territory was not unimportant because it covered almost the entire half of the group involved.

Attorney Towner suggested that the exception applied only to points on the Burlington Railroad, but no definite conclusion was arrived at (Tr. 4156-4157-4158).

Thereupon Mr. Dana said:

I cannot find any item in the division sheet which covers the other points excepting item 255, to which Mr. Behrle refers, which says "points east of the Mississippi River as provided below via Kansas City and other lower Missouri River crossings, 20 per cent."

But it did seem to me absurd when I was studying this situation that Fort Madison, for instance, and Burlington, which lie west of all this territory, and Keokuk also, and Quincy, which lies south and west of it, should take a higher division via the same gateway than do the points east thereof. That is why I asked the question.

Mr. Towner: Maybe that is one of the things that ought to be fixed in the case.

Mr. Dana further said that he thought possibly Mr. Behrle perhaps had better information than he had regarding the subject and had desired to find out what information he had (Tr. 4158).

Thereupon Attorney Towner said that the witness had done the best he could to find out what the divisions were and that if he was wrong he would be very glad to have anybody correct him (Tr. 4159).

[fol. 156] The Witness, continuing: I have tried to show a picture of the general situation. I realize that in Southwestern Lines division sheet No. 40 as well as others which have been made a part of this record, there are numerous exceptions and if we try to pick them out I think it would be very confusing (Tr. 4159).

Mr. Dana then said that he was not making a criticism of Witness Behrle's exhibit or testimony, but that in many instances he himself did not know what the divisions were and could not determine them. Attorney Towner said that it must be understood that if the witness undertook to read into the record all of the divisions to the individual points, he would spend a couple of weeks doing that and the witness said that it would probably require several years instead of weeks (Tr. 4159).

The Witness, continuing: In the division of rates between Texas and points in Western Trunk Line territory and including Illinois, the lines north of Kansas City and East St. Louis as a general proposition receive a percentage proportion of what is known as the Texas common point rate. In a few instances such as divisions to and from Burlington, Rock Island and Quincy, which are shown in items 275, 280 and 285 of Leland's division sheet No. 40, the lines north receive a different proportion on traffic to

Houston and Galveston and points taking the same rates than they do on traffic to the balance of the Texas common point group. Houston and Galveston and related points are generally grouped with the other points and considered Texas common points.

[fol. 157] On traffic to and from points west and south of Texas common point territory, the lines west and south are allowed the trbitraries over the Texas common point rates in addition to their division of the Texas common point rates.

The territory to the south and west of Texas common point territory is commonly known as differential territory (Tr. 4160).

(Exhibit A-12 was received in evidence. In addition to the outline of Texas common point territory, the map shows outlined in red, the Eastern boundary of Texas differential territory and the boundaries of the Houston-Galveston group. It also shows the location of substantially all of the railroads operating in the state of Texas and the principal towns and population thereof in the state of Texas and also the counties and population thereof.)

The subdivision known as the Houston-Galveston group, as previously stated, is also considered in Texas common point territory. That portion of the state of Texas west and south show the western boundary of common point territory is divisional territory. That is the territory to and from which rates are made on arbitraries over Texas common point territory. These arbitraries accrue to the western lines. I do not know whether they accrue to the Texas lines since I am not familiar with the subdivisions (Tr. 4161).

Here the witness was questioned concerning the correctness of the eastern boundary of divisional territory as shown on Exhibit A-12. The witness said that the location of the divisional boundary was checked out on the tariffs and as far as he knew was correct. He said that the Sterling City branch of the G. C. & S. F. just north of San Angelo, was in differential territory instead of common point territory (Tr. 4162).

[fol. 158] The Witness, continuing: It may be understood that this map should conform to the tariffs which have been introduced. The map shows Texas territory from which the divisions vary to the territory north of St. Louis and Kansas City as pointed out in connection with exhibits A-10 and A-11 (Tr. 4162-4163).

The next two maps, exhibits A-13 and A-14 cover the state of Missouri (Tr. 4163).

(Exhibits A-13 and A-14 were received in evidence.)

[fol. 159] Exhibit A-13 is a map of Missouri on which is drawn a line in blue leading southwest from St. Louis to the Arkansas line. There are also encircled in blue several points such as Clinton, Salem and DeSota (Tr. 4163).

Exhibit A-14 has marked on it the same line in blue but there are encircled in blue pencil such points as Union, Jefferson City, Sedalia and Clinton (Tr. 4163).

For divisional purposes, the state of Missouri on and south of the Missouri River is divided into two parts. One section is located south and east of the line of the St. Louis-San Francisco Railway from St. Louis to Springfield, Missouri, thence east on an imaginary line drawn south of Springfield, east of Ozark, Chadwick, Forsyth and Pinetop, Missouri, to the northern boundary of Arkansas. Between the territory north of this group and points north of East St. Louis the lines north receive arbitrary proportions predicated on a division of the Chicago-Missouri River rate, first deducting the Mississippi River bridge tolls and subdividing the balance of 47½ per cent east of the Mississippi River.

These divisions are set out in specific amount in the Illinois Freight Association division sheet No. 3-C (Tr. 4163-4164).

The rate grouping controls the northern division group and is therefore necessary to take into account the application of the rates in connection with the several tariffs covering the rates to and from this territory. Western trunk line tariff No. 18-K, E. B. Boyd's I. C. C. No. A-1337, carries rates from the territory in western Missouri, Springfield and west, and west of Windsor on the Rock Island. We have prepared a map showing the boundaries

of the Chicago, Peoria, St. Paul, Duluth and differential rate territories (Tr. 4164).

[fol. 160] I know that the western trunk lines do not get the bridge toll. We got 47½ per cent of the balance of the rate after the bridge toll has been deducted. We got 47½ per cent for the proportion east of East St. Louis after these deductions were made. I don't know what the western lines get. The lines east of East St. Louis take the Chicago-Missouri River rate, less these deductions, and take 47½ per cent of the balance. I don't know whether the western lines get 52½ per cent of the same balance or not (Tr. 4164-4165-4166-4167).

Exhibit A-15 is a map headed "Rate grouping western trunk line tariff 18 to and from southwestern Missouri, used in connection with Illinois Freight Association Division sheet No. 3-C" (Tr. 4168).

(Exhibit A-15 was received in evidence.)

[fol. 161] On traffic to and from the St. Paul group in Minnesota, north of Chicago, Peoria & St. Louis groups in Iowa, there is a varying rate application, Chicago rates, but no higher than the St. Paul rates, and the Chicago rates, but no higher than Peoria rates are applied. On traffic between Peoria rate points and southwestern Missouri, the lines west of East St. Louis are allowed the same proportions as they receive in the division of the rate to and from Chicago, the lines east standing the shrink between the Chicago and Peoria rates.

To the territory taking rates higher than Milwaukee, the lines west of East St. Louis receive the same earnings as they receive in the division of the rates to and from Milwaukee. This basis applies via East St. Louis to substantially all Missouri territory. I think there are not any exceptions to that (Tr. 4169).

On traffic between southwestern Missouri points and Milwaukee, the lines west receive Chicago earnings, there being no specific Milwaukee group as to this traffic.

An exception to the general application of this division is made as to traffic moving to or from stations on the Chicago & Northwestern, or the Chicago, Milwaukee & St. Paul, since those lines will only observe Illinois Freight Commission division sheet No. 3-C on traffic to and from

Missouri stations on the Rock Island, Windsor and east; on the Missouri Pacific, Jefferson City, Bonneville, Lexington, Holden, Sedalia and intermediate points, also between Bonneville and Tipton, Missouri, and M. K. & T. stations, Holden, Missouri, Windsor, Missouri, and north and east thereof on the Frisco, Springfield, Missouri and east. [fol. 162] The rates involved are subject to specific routing and it does not necessarily follow that all of this territory is open to the application of rates via East St. Louis (Tr. 4169-4170).

The divisions in I. F. A. 3-C cover classes and commodities, except petroleum oil and products, coal and coke, copper matte, pig lead, grain and grain products and hay, lithards, forest products, ore, bullion, sand, stone, gravel, cotton and cotton linters (Tr. 4170).

The Mississippi bridge tolls to which I have referred are eight cents on the first four classes and three cents on classes 3 to E inclusive. The arbitraries between Chicago and East St. Louis representing 47½ per cent of the Chicago-Kansas City rate minus these deductions are the following on the ten classes: 54, 43, 29, 19, 18, 22, 18, 14, 12 and 10. To arrive at these divisions, we take the Kansas City-Chicago rate, then deduct the bridge arbitraries, and take 47½ per cent of the balance. That produces the figures which I have just referred to. This basis of division applies via East St. Louis, between Chicago territories and Missouri territory west of the Frisco (Tr. 4170-4171).

The proportions between Chicago, Cairo, Gale and Thebes are higher than the division via East St. Louis by 4½ cents on classes 1 to 4 and 3 cents on classes 5 to E. The commodity divisions via these gateways being generally 3 cents per hundred pounds higher than the divisions between Chicago and East St. Louis (Tr. 4171).

On business to and from Milwaukee and points taking the same rates the Chicago-East St. Louis proportions are plussed by the following amounts: First class, 9 cents. Second class, 7½ cents. Third, 6 cents. Fourth class, 4½ cents, and Fifth class to Class E, inclusive, 3 cents. [fol. 163] On business between Milwaukee and Cairo, Gale and Thebes, the Milwaukee-East St. Louis divisions are plussed by the following amounts: Classes 1 to 4, 4½ cents, and classes 5 to E, 3 cents (Tr. 4171-4172).

On shipments moving on through commodity rates on which there are no specific commodity divisions, the proportions for the lines East of the Mississippi River crossings are the same percentage of the class divisions that the through commodity rate is of the class rate. On shipments that move on class rates the proportions east of East St. Louis are the class rate divisions irrespective of any specific commodity divisions that may be published (Tr. 4172).

The grouping north of East St. Louis on traffic to and from Missouri points varies. The Missouri Pacific in its tariff 4381-E, I. C. C. No. A-5881, publishes rates between Missouri points and points east of East St. Louis. Exhibit A-16 illustrates the grouping applicable to this tariff. This exhibit is a map headed "Rate grouping Missouri Pacific tariff No. 4381-E, I. C. C. No. A-5881, to and from Missouri used in connection with I. F. A. division sheet No. 3-C" (Tr. 4173).

(Exhibit A-16 was received in evidence. It shows the groups referred to in Illinois, Iowa, Wisconsin, Minnesota and the upper peninsula in Michigan, the boundaries of the groups being outlined in red.)

Illinois Freight Association Division sheet No. 3-C shows specifically the divisions applicable between Chicago, Milwaukee, East St. Louis, Cairo, Gale and Thebes, and from the territory taking rates higher than Milwaukee, the lines south receive Milwaukee earnings.

[fol. 164] An exception to the general basis of the divisions, namely 47½ per cent on the Chicago-Kansas City rate, after deduction of the bridge toll, is made on traffic between Chicago and points taking the same rates and Jefferson City, North Jefferson, Sedalia and Columbia, Missouri.

On business to and from these points the lines east of East St. Louis receive 50 per cent, first deducting the bridge tolls.

On traffic to and from Hermann and Washington, Missouri, which are intermediate to Jefferson City, the lines east of East St. Louis receive 55 per cent, first deducting the bridge toll. The provision covering this is shown on page 7, item 10 of Illinois Freight Association division sheet No. 3-C, which reads as follows:

"In dividing commodity rates between Chicago and common points and Columbia, Hermann and Jefferson City, North Jefferson, Sedalia and Washington, Missouri, which are lower than Missouri River basis, the following divisions will apply: Jefferson City, North Jefferson, Sedalia and Columbia, 50 per cent, east of East St. Louis, Alton or East Hannibal, 50 per cent west of East St. Louis, Alton or East Hannibal, Illinois; Hermann, Missouri, Washington, Missouri, 50 per cent east of East St. Louis, 45 per cent west of St. Louis; St. Louis bridge tolls as per Terminal Railroad Association of St. Louis division sheet 15, supplements thereto or reissues thereof, to be deducted before pro rating and accrue to the line handling the traffic across the river" (Tr. 4173-4174).

The divisions between Chicago and Jefferson City are not the same as between Chicago and Kansas City, because the percentages vary. We got 47½ per cent on Kansas City business via East St. Louis, first taking out the bridge toll deduction, but on Jefferson City business we got 50 per cent of the rate, first deducting the bridge toll (Tr. 4174-4175).

[fol. 165] The lines north of Chicago are allowed 25 per cent of the East St. Louis-Milwaukee division in the case of special commodity rates between Milwaukee and Jefferson City, North Jefferson, Sedalia, Columbia, Hermann and Washington, Missouri, which are lower than the rates to and from Kansas City. The balance is subdivided on Chicago destination percents, the bridge tolls being taken out of the proportion south of Chicago, that is, before we make the subdivisions, we take out the bridge toll and then take our percentage proportion of the balance. The bridge toll plus the balance goes to somebody else. I am talking about the Missouri points north of the St. Louis-Springfield line. The divisional basis is generally the same to those points with the exceptions that I have mentioned. All of those points north of the line referred to are blanketed for divisional purposes via East St. Louis (Tr. 4175-4176).

The Missouri Pacific in division basis No. 3278-C publishes divisions on through billed traffic, taking the first four class rates and also on cotton piece goods less than carload between Chicago and points taking the same rates

and points in Missouri via East St. Louis, which are approximately the Illinois Freight Association arbitraries converted into percentages. These apply east of St. Louis (Tr. 4176-4177).

Exhibit A-17 is a statement showing the percentages based on averages of the class rate proportions north of East St. Louis on traffic to and from points in Missouri on and south of the Missouri River, not including southeastern Missouri, that is, not including points south and east of the line shown in exhibit A-13 and A-14. I am still dealing with the territory north of the Chicago-Springfield line (Tr. 4177).

[fol. 166] (Exhibit A-17 was received in evidence. In addition to information described by the witness, the exhibit shows the averages of the present proportions north of East St. Louis, on carload and less than carload traffic. It shows what the percentages or divisions north of East St. Louis would be on a mileage pro-rate and in every instance the mileage pro-rate would result in a higher percentage than the average of the present proportions or divisions. The mileages between Chicago and Peoria, Illinois and Milwaukee, Wisconsin on the one hand and East St. Louis on the other are shown as 279, 157 and 364 miles respectively. The mileages from East St. Louis to the points in Missouri shown range from 64 miles to 336 miles.)

Attorney Towner thereupon stated that Attorney Larimore raised the question as to whether or not points on the main line of the Missouri Pacific between Kansas City and St. Louis were involved in the case, and referring to the order issued by the Commission on September 8, 1925, (Petitioner's Exhibit 2 in the District Court). Attorney Towner said that in his opinion the points on the main line of the Mssouri Pacific were in what is defined in the notice as Western Trunk Line territory. Attorney Towner said that the points on the line of the Missouri Pacific were not in the case (Tr. 4178).

Attorney Larimore objected to the consideration of Witness Behrle's testimony as to Jefferson City, Sedalia, Herman and Washington (Tr. 4178-4179).

Exam. Disque: Do you desire to have them eliminated, or do you not?

Mr. Towner: It does not make much difference whether they are eliminated or not, Mr. Examiner, for the reason [fol. 167] they are not involved. Mr. Larimore is right or not right.

Exam. Disque: I am asking whether or not we should consider them, regardless of the notice of the hearing, as a practical matter.

Mr. Larimore: We object to them being included.

Exam. Disque: All right.

Mr. Towner: That disposes of that.

Exam. Disque: Yes (Tr. 4179).

Witness Behrle, continuing: Exhibit A-17 is headed "Percentages based on average of class rate proportions north of East St. Louis on traffic to and from points in Missouri not including southwestern Missouri." There are some points on the Missouri Pacific main line between St. Louis and Kansas City included in this statement. That is Booneville, Jefferson City, Sedalia and Lexington. These are excepted points, being located on and north of the main line of the Missouri Pacific from St. Louis to Kansas City (Tr. 4179-4180-4181).

The points shown on Exhibit A-17 are those encircled in blue on the map of Missouri marked Exhibit A-14. Exhibit A-17 shows under the heading of the present percentage north an average of the class and rate proportions on the first four classes north of East St. Louis, and designated as less than carload as related to the through class rates between Chicago, Peoria and Milwaukee and the points of destination in Missouri shown in the left hand column on the exhibit.

The percentages north applicable to the traffic designated as carload is the average of the proportions on classes 5 to E north of East St. Louis as related to the through rates between Chicago, Peoria and Milwaukee and the destination points shown opposite the word "average"; the present percentage north is based on the average of all class [fol. 168] rate proportions north of East St. Louis as related to the through class rates between Chicago, Peoria and Milwaukee and the Missouri points. The mileage west represents the mileage from St. Louis pluss three miles. The percentage on the mileage basis is that arrived at by use of the mileages as shown (Tr. 4181).

You would not get the same result in every case if you took the class rate proportions and averaged them and then compared them to the through rates. The difference in the percentage would depend on the difference in the through rate (Tr. 4182).

Attorney Larimore thereupon said that the testimony concerning southwestern Missouri territory should not be introduced against the Missouri Pacific or the Santa Fe because the divisions of those roads with reference to that territory was included in the trans-Missouri agreement.

Attorney Towner said that the agreement with reference to the Oklahoma adjustment was extended to the same lines of railroad in southwestern Missouri and insofar as the agreement applied, the railroads which he represented were asking for no change in divisions insofar as the Santa Fe and the Missouri Pacific were concerned. Attorney Towner said there was no adjustment of any sort on any line in Oklahoma as to divisions via St. Louis or East St. Louis (Tr. 4182-4183).

The witness, continuing: In Supplement 3 to western trunk line division sheet No. 15-A, which is designated as No. 1, in book No. 1, and which is designated as No. 1, in book No. 1, and which is effective July 1, 1925, there appears this statement:

[fol. 169] "Changes in Merchandise Percentages.—Effective July 1, 1925, all merchandise percentages shown in Section No. 1 of division sheet Western Trunk Line No. 315-A and supplements Nos. 1 and 2, applying to and from the following territory west of the Missouri River: All stations in Kansas, Nebraska, Wyoming, Montana, Colorado, Utah and Idaho on the Union Pacific, Oregon Short Line, Los Angeles & Salt Lake and St. Joseph & Grand Island Railway; all stations in Missouri, Kansas, Nebraska, Colorado, and Oklahoma on the A. T. & S. F. Railway, C. R. I. & P. Railway, G. C. & S. F. Railway, Missouri Pacific Railroad, and Missouri Pacific Railroad in Nebraska; all stations in Kansas, Nebraska, Wyoming, Montana and Colorado on the Chicago, Burlington & Quincy Railroad; all stations in Nebraska, and Wyoming on the

Chicago & North Western Railway, will be changed as follows, subject to exceptions below:

"Percentage proportions east of the Missouri River will be increased 14 per cent; proportions west of Missouri River crossings will be reduced by the amount of the increases east thereof. Exceptions on traffic to and from the territory west of the Missouri River outlined above on the A. T. & S. F. Railway, C. B. & Q. Railroad, C. & N. W. Railway, C. R. I. P. Railway, G. C. & S. F. Railway, Missouri Pacific Railroad, and Missouri Pacific Railroad in Nebraska, these roads will not accord the increase proportion shown herein to their connections east of the Missouri River where such connections having rails west of the Missouri River, namely, M. K. & T. Railroad, St. L. & S. F. Railway, and lines reached via rails of said lines east of Missouri River gateways do not make a similar increase to the lines east of the Missouri River. The arrangement provided in this supplement applies only on shipments interchanged at Missouri River crossings via which the percentages named on this division sheet apply.

[fol. 170)] "NOTE.—The 14 per cent increase is 14 per cent of the percentage proportion as published for lines east of the Missouri River and not of the total" (Tr. 4183-4184-4185).

This applies via the Missouri River crossings named in the division sheet. Book No. 1 to which I referred is Exhibit A-5 (Tr. 4185).

Attorney Towner then said that the railroads he represented were not asking for an increase in the divisions to points on the Missouri Pacific and Santa Fe mentioned in that item and that this was also true as to the Rock Island (Tr. 4185-4186).

The Witness, continuing: St. Louis and San Francisco Railway tariff 1298-G, I. C. C. No. 8005 publishes rates to points on that line in Missouri west of St. Louis and east of Springfield.

Exhibit A-18 is a map showing the northern grouping which is outlined in this tariff. The grouping is limited to points taking Chicago and Milwaukee rates (Tr. 4186).

In Western Freight Bureau Tariff No. 506-E, E. B. Boyd's I. C. C. No. A-1007, there were published proportional rates applicable between Chicago, Milwaukee, Peoria and Bloomington rate groups and East St. Louis and Cairo, Gale and Thebes, applicable on traffic to and from points in Arkansas and Missouri. I am speaking about the rate groupings in the St. Louis San Francisco Tariff named to and from Missouri used in conjunction with I. F. A. division sheet No. 3-C (Tr. 4186-4187).

(Ex. A-18 was received in evidence.)

The divisions on Arkansas traffic were subsequently transferred to Illinois Freight Association division sheet [fol. 171] No. 5 effective September 1, 1923, but the divisions on traffic to and from Missouri points are now carried in tariff No. 506-G, E. B. Boyd's I. C. C. No. A-1438, effective January 1, 1924. The proportional rates between Chicago, Milwaukee, Peoria and Bloomington groups and East St. Louis and the Ohio River published in tariff No. 506 series applied to traffic to both Missouri and Arkansas alike. The Arkansas divisions were withdrawn from the tariff but it is still applicable as to traffic having origin or destination in southeastern Missouri (Tr. 4187).

At the time of the issuance of Illinois Freight Commission division sheet No. 6 the Southwestern lines requested that these divisions be not applied on traffic to and from Missouri points, with the understanding that they would subsequently submit some basis for the division of revenues on this business. In some instances arrangements have been made by the Northern lines for the use of Illinois Freight Committee division sheet No. 5 on traffic as a temporary matter, but this arrangement was not general. Considerable confusion exists with respect to these divisions. The complaint of the northern lines is that the lines south generally take their local rates on this traffic (Tr. 4188).

It has also come to our attention that instead of allowing the divisions as shown between the northern groups and East St. Louis where the traffic is tendered, southern connections at that point, the lines north are usually restricted to their merchandise percentage proportions of the allowance published between the northern groups and

Cairo, Gale and Thebes. Instead of allowing the first class division of 58 cents from Chicago to East St. Louis, the southwestern lines will restrict the northern lines to 65 per cent on the Chicago-Thebes division of 66 cents or 42.9 cents, a reduction of 38 per cent on the Chicago-East St. [fol. 172] Louis division (Tr. 4188-4189).

Tariff No. 506 grouping is the same as the Illinois Freight Association division sheet No. 5 grouping. The divisions I am referring to are applied to and from the territory shown on Exhibit A-13, south and east of the line from St. Louis to Springfield. On the northern end the grouping is as shown in exhibit A-18. I have used the Frisco tariff as an illustration of the grouping of this traffic. The Illinois Freight Committee division sheet that I last referred to applies as to traffic in southeastern Missouri (Tr. 4189).

Exhibit A-19 is a statement of the percentages based on the average class rate proportions north of East St. Louis and Thebes on traffic to and from Southeastern Missouri, south and east of the line from St. Louis to Springfield (Tr. 4189-4190).

(Exhibit A-19 was received in evidence. It is similar to Exhibit A-17 except that it shows percentages to points in Southeastern Missouri and shows only two western trunk line points, that is Chicago, Illinois and Milwaukee, Wisconsin, but shows the percentage bases via both East St. Louis and Thebes. The percentages under the mileage pro-rates shown are in every instance in excess of the averages of the present percentages.)

On less than carload traffic, the percentage is based on the average of the proportions north of East St. Louis and Thebes on the first four classes. The carload average is computed on the remaining classes 5 to E. The average percentage is based on an average of all of the class rate proportions 1 to E. The percentage shown represents the relation of the average proportions north of East St. Louis arrived at in this manner to the through class rates (Tr. 4190-4191).

Basis No. 1 shown in the third column on Exhibit A-19 [fol. 173] represents an average of the class rate proportions north of Thebes, subdivided on merchandise per-

centages via East St. Louis, under which from Chicago, the lines north receive 65 per cent.

Under the heading "basis No. 2" on this exhibit is shown an average of the class rate proportions shown in the division sheet as applicable north of East St. Louis. Exhibit A-19 is to be considered in connection with the map, Exhibit A-18 (Tr. 4191).

The mileages from Chicago and Milwaukee to East St. Louis are the short line mileages and would not represent the average mileages north of East St. Louis and Thebes on the traffic involved. We have selected Chicago and Milwaukee because they are the most prominent and important of the points in Illinois and Wisconsin, and the largest part of the traffic moves to these points and vicinity (Tr. 4191-4192).

Exhibit A-20 is a map of Arkansas on which are encircled in blue pencil points such as Blythesville, Jonesboro, Little Rock, and Hot Springs.

(Exhibit A-20 was received in evidence. In addition to the matters referred to by the witness, it shows the location of the principal railroads operating in Arkansas, the population of the principal cities and towns and of the counties.)

Illinois Freight Association division sheet No. 5, effective September 1, 1923, shows the proportions between Chicago, Milwaukee, and East St. Louis to Cairo, Gale and Thebes, and between Peoria, and Cairo, Gale and Thebes and between Peoria, Bloomington and East St. Louis, on traffic having origin or destination in Arkansas, not provided in Illinois Freight Committee division sheet No. 3-C.

[fol. 174] Only points in the northwest corner of Arkansas, which are designated by blue pencil marking on exhibit A-20 are covered by Illinois Freight Committee division sheet No. 3. This division sheet emanated from the tariff known as Illinois Lines Tariff No. 506, the current issue of which is 506-G, E. B. Boyd's I. C. C. A-1438.

In the original tariff of this series, proportional rates were published between Chicago, Peoria, Bloomington and Milwaukee rate groups and East St. Louis and the Ohio River on traffic to and from Arkansas points. These proportional rates were accorded lines north of East St. Louis

and the Ohio River on Arkansas business (Tr. 4192-4193).

Under Ex Parte 74, effective August 26, 1920, these rates were increased 40 per cent. The rates between Illinois territory and Arkansas were only increased 35 per cent. As under the provisions of Ex Parte 74 divisions were to be increased in conformity with the percentage increase in rates, a division sheet was issued known as Illinois Freight Association No. 5, setting forth the proportional rates as shown in tariff No. 506-E, E. B. Boyd's I. C. C. No. A-1007, in effect at the time of application of Ex Parte 74 plus 35 per cent which was the increase in rates between Illinois Rate Committee territory and Arkansas and minus the 10 per cent reduction which became effective July 1, 1922, under I. C. C. Docket 13293.

The class rate proportions between Chicago and East St. Louis under this division sheet are for the classes No. 1 to 5 and A to E respectively, 56, 50, 40, 27½, 20½, 22½, 20½, 19½, 16 and 14½. The divisions between Milwaukee and East St. Louis under these classes are respectively: 85½, 57½, 46½, 32½, 24½, 25½, 24½, 22½, 19½, 17½. The class rate proportions between Chicago and Cairo and Thebes were originally the following amounts above the [fol. 175] divisions to and from East St. Louis for the classes 1 to E respectively: 5, 3, 3, 3, 2, 2, 2, 2, 2, 2.

And the following proportions over Chicago: 6, 5, 4, 3, and 2 cents on the remaining classes.

Specific divisions are provided in this sheet on various commodities, not including brick, cement, coal, coke, hay, lime, petroleum, stone, stone ware, straw, stucco and wall plaster, the commodity divisions being published between Chicago, Peoria, Pekin, Bloomington and Milwaukee groups and East St. Louis, Cairo, Gale and Thebes (Tr. 4194-4195).

Specific grouping is provided in this division sheet. This grouping is outlined on Exhibit A-21 (Tr. 4195).

(Exhibit A-21 was received in evidence and is hereafter described by the witness.)

Exhibit A-21 is headed, "Divisions to and from Arkansas via East St. Louis, Illinois Freight Association division sheet No. 5."

The Milwaukee, Chicago, Peoria and Bloomington groups are outlined in red.

The Chicago rate application on Arkansas traffic extends to the territory north of the B. & O. from East St. Louis to the Illinois boundary line, and while the division sheet is not clear, I believe that these divisions are sometimes applied to the Chicago rate groupings (Tr. 4195).

The points encircled in blue on Exhibit A-20 are the Arkansas points used in connection with Exhibit A-22 which was the relation of class rate proportions north of East St. Louis and Thebes to the through rates on traffic to and from Arkansas points (Tr. 4195-4196).

[fol. 176] (Exhibit A-22 was received in evidence. This exhibit also shows the divisions which would accrue to the lines north of East St. Louis and Thebes under a mileage pro-rate. In each instance the division under the mileage pro-rate is shown to be in excess of a basis designated as present percentages or divisions.)

(By Exam. Disque:) For instance, to Hot Springs via East St. Louis from Chicago the line north of East St. Louis gets on the average 26.7 per cent, is that right?

Yes, using the class rate proportions to East St. Louis and converting them into percentages arrived at by relating that average to the through rates to and from Arkansas.

Exam. Disque: Those are also the divisions the western lines are trying to increase in the St. Louis-East St. Louis bridge case.

Mr. Towner: Those are the same ones (Tr. 4196).

The Witness, continuing: Two bases are shown on Exhibit A-22. Under the heading of basis No. 1 is shown the averages of the class rate proportions north of Cairo and Thebes as related to the through class rates subdivided on East St. Louis on the merchandise percentages, which from Chicago are 65 per cent north and 35 per cent south. Under basis No. 2 is shown the relation of the class rate proportions north of East St. Louis to the through rates.

On traffic tendered southern lines at East St. Louis the lines south do not always allow the lines north the divisions shown via East St. Louis, but frequently allow the lines north the divisions of the proportions north of Thebes. It

sometimes depends upon who is making the settlement as to what we get as divisions.

[fol. 177] We say on business interchanged via East St. Louis a division as shown via East St. Louis should apply, but our southern friends do not always agree. There are proportions published to and from Thebes in the same division sheet and they often divide the proportions between Chicago and Thebes, as an illustration, via East St. Louis. That is why I have shown two bases via East St. Louis and only one basis via Thebes. When the business moves via Thebes direct, there is no question about the divisions (Tr. 4197).

I have used Chicago and Milwaukee in Exhibit A-22 because they are the principal points, the basing points for the divisions (Tr. 4198).

Exhibit A-23 is a map of Oklahoma on which certain points have been encircled in blue. Attached to the exhibit is a statement bearing the heading, "Percentages based on average of class rate proportions north of East St. Louis and Thebes on traffic to and from points in Oklahoma."

This refers to Oklahoma traffic via East St. Louis and Thebes (Tr. 4198).

(Exhibit A-23 was received in evidence. In addition to the matters referred to by the witness, it shows the principal railroads operating in the state of Oklahoma, the population of the principal towns and cities and of counties. The statement attached to the exhibit shows that divisions on the basis of a mileage pro-rate would accord to the lines north of East St. Louis, a greater percentage of the revenues than the average of the present class rate proportions between the points covered by Exhibit A-23.)

[fol. 178] I do not show basis 1 and basis 2 on this exhibit, because I do not know whether the same method of divisions is employed as to the Oklahoma traffic. It may be, but I do not believe it is (Tr. 4199).

On traffic to and from Oklahoma points via East St. Louis and the Ohio River, the lines east receive the arbitrary proportions shown in Illinois Freight Committee Division sheet No. 3 except that on traffic to and from Howe, Potter, Maney Junction, Cameron, Neff, Poteau, Cavanal and West-

ville, Oklahoma, which are located adjacent to the eastern boundary in the central part of the state, the lines north of East St. Louis receive the proportions which are shown in Illinois Rate Committee division sheet No. 5 (Tr. 4199).

The statement attached to the map shows the percentages arrived at by taking an average of class rate proportions north of East St. Louis and Thebes and comparing it with the through class rates. The points in the statement correspond to those on the map. Where the letters l. c. l. appear, it should be understood that the average class rate proportion is based upon the first four classes. The carload averages are based on classes 5 to E inclusive. The average percentage shown is based on classes 1 to E inclusive. (Tr. 4199-4200.)

The northern grouping on Oklahoma traffic via East St. Louis is controlled by the tariff application and for the purpose of illustrating this situation, we have prepared a map showing grouping which is outlined in F. A. Leland's territorial directory No. 1-G, I. C. C. 1665, issued in connection with I. R. C. division sheet No. 3-C. This map is offered as Exhibit A-24 (Tr. 4200).

(Exhibit A-24 was received in evidence.)

[fol. 179] Chicago, Illinois, October 14, 1925.

J. A. Behrle

Direct examination (continued):

It is not correct to say that the divisions to and from Arkansas as described by me in connection with my exhibit A-21 and my exhibit A-22 apply only to the three groups that we have outlined on exhibit A-21. As I explained yesterday, the grouping shown is that contained in Illinois freight division sheet No. 5. The division sheet also contains the proviso that these divisions will be applicable to and from points from which Milwaukee, Chicago, Peoria and Bloomington rates are applied. And generally speaking, the Chicago rate application extends to the territory in Illinois south of the Peoria, Bloomington and the Chi-

cago groups, to points north of the line of the Baltimore & Ohio from East St. Louis to the Indiana-Illinois state line. That would include the additional territory in Illinois north of the line of the Baltimore & Ohio, and south and east of the Chicago, Peoria and Bloomington groups. There are no general divisions outlined to Arkansas via St. Louis or East St. Louis to and from the territory west of Illinois and Wisconsin (4204).

Generally speaking, if a shipment originated at, or was delivered in Wisconsin north of the Milwaukee line, the lines south would receive their Milwaukee earnings, and as I explained in other cases, the arbitrary if any over Milwaukee would accrue to the lines north of the Milwaukee group. To the territory in Iowa generally, there is no general basis of divisions.

There was one statement I wanted to make before I discussed the Louisiana situation, and that was that yes- [fol. 180] terday I made the statement that the divisions to and from southeastern Missouri points are contained in tariff No. 506-G, E. B. Boyd's I. C. C. No. A-1438.

The rates between the Chicago and the St. Louis groups on traffic to and from Missouri points are carried in this tariff, but the northern lines are asking for the application of tariff No. 506-E, as increased 35 per cent, less 10 per cent. I wanted to make that clear because I referred to tariff No. 506-G as containing the divisions, whereas that issue contains the proportional rates which were increased 40 per cent in conformity with ex parte 74, as applied to the state of Illinois (4205). Instead of insisting on tariff No. 506 as it now applies, the northern lines contend that tariff No. 506-E, as increased 35 per cent, less 10 per cent, should be applied. That question is not in dispute. The divisions to and from southeastern Missouri points are not contained in Illinois freight division sheet No. 5 in which are incorporated divisions on Arkansas traffic (4206).

In connection with the presentation of exhibit A-24 yesterday, I explained that the grouping of Oklahoma traffic via East St. Louis is controlled by the tariff application, and in that connection I introduced the map, the heading of which is, "Rate grouping on Oklahoma traffic via East St. Louis, F. A. Leland's 1-G I. C. C. Number 1665," used in conjunc-

tion with Illinois Freight Association division sheet number 3-C. I believe that explains the situation.

With respect to the divisions on Louisiana traffic—that is, to and from points in Louisiana west of the Mississippi river—I would say that they are in a rather chaotic condition. The southern lines have in effect several specific division sheets setting forth the percentage proportions allowed north of East St. Louis and the Ohio river, but generally speaking, these division sheets have not been specifically approved by the northern lines, although they are generally in effect. Under these division sheets the lines between Chicago and East St. Louis are allowed 30 per cent on traffic to and from what is known as the common points, which comprise Alexandria, Shreveport and Monroe, and the points in that vicinity. The 30 per cent division is also applied from points on the Missouri Pacific from points [fol. 181] north of Alexandria and Monroe, and from stations on the Tremont & Gulf and Vicksburg, Shreveport & Pacific. Where these divisions are in effect the groupings north of East St. Louis and the Ohio river are controlled by the rate grouping which is set forth in Leland's territorial directory No. 1-G, outlined on the map which will be introduced as exhibit No. A-25, which is a map headed, "Rate grouping to and from Louisiana via East St. Louis, F. A. Leland's territorial directory 1-G, I. C. C. 1665," which said exhibit A-25 was thereupon received in evidence (4207, 4208).

[fol. 182] I also wish to introduce in evidence a map of Louisiana on which there are encircled in red the cities of Shreveport, Monroe, Boyce and Alexandria, which exhibit was offered in evidence as A-26 (4209).

[fol. 183] I also wish to present as my next exhibit, A-27, a statement showing the basis for divisions on Louisiana traffic via East St. Louis, Cairo, Gale and Thebes, which exhibit was duly received in evidence (4209).

[fol. 184] From New Orleans rate points on the Texas and Pacific, the lines north of East St. Louis receive 33 per cent, first deducting the Ohio river bridge toll. With this exception, and those to which I have previously referred, the lines north *and* generally accorded Texas common point percentages of the actual rate, but not in excess of Texas common point revenue. An exception to this is sometimes

made in the case of Lake Charles and Westlake, Louisiana, which are located in the southwestern part of the state, in that on traffic to and from these points the lines north are allowed Houston percentages of the actual through rates.

It will be recalled that on traffic between Houston and the Mississippi river points such as Rock Island and Quincy, there is a different division north of East St. Louis than on traffic between those points and other points in Texas common point territory. On traffic from Milwaukee territory to Shreveport, Monroe and Alexandria, the lines north of Chicago are allowed stated arbitraries and the balance south is subdivided on the basis of the Chicago percentages. We have made a computation converting the proportions north of East St. Louis and the Ohio river on business from Milwaukee into percentages which have been shown in exhibit No. A-27. In such cases there appears a reference mark opposite the percentage shown under the column "Milwaukee territory," indicating that the percentages used are an average of the class rate proportions.

Q. On your exhibit A-27 you have shown percentages to and from the Milwaukee-Chicago territory, but on your exhibit A-25 you have shown other groups—St. Louis, Omaha, Davenport, Fox river, etc. Do percentages apply to and from those groups, or what is the situation there?

A. Well, with the Fox river territory the same situa-[fol. 185] tion would apply as in the case of divisions to Arkansas and Texas—that is, the lines north get the arbitraries, and the lines south get their percentage of the Milwaukee rate.

I do not believe that there are any percentages into the Omaha-Davenport territory. This is the rate grouping which you have in the tariff, but I do not know that there are any specific divisions published there. The divisions do not always follow the rate groupings. If they are there, they are shown in the percentages which are contained in exhibits A-5, A-6 and A-7. If there are any, I do not have them outlined in detail.

The divisional basis from Milwaukee to Shreveport, Monroe and Alexandria is also applied to certain other points in Louisiana on the Missouri Pacific, Cotton Belt, and other points which are shown in exhibit A-27.

I believe I can get an outline of some of the divisions to and from the Omaha-Davenport territory to which Mr. Towner has made reference. There is a provision in the Cotton Belt division sheet that to and from Omaha-Davenport territory the allowance on traffic to and from points on the Chicago, Burlington & Quincy Railroad in Illinois, Iowa and Missouri, and points on the Wabash south of Des Moines, north of East St. Louis is 27.5 per cent. To and from stations on the Wabash, from Council Bluffs to and including Locke Springs, Missouri, the lines north received 30 per cent. To and from the Alton-Wood river group in St. Louis territory, the lines north of East St. Louis receive 15 per cent of the Shreveport rate of traffic to and from Shreveport. Between East St. Louis and [fol. 186] points on the Wabash, Macon, Missouri, to but not including St. Louis, the lines north receive 27.5 per cent.

From stations on the Wabash, Randolph, Excelsior Springs, Glasgow and Chillicothe, Missouri, which are located in the western part of the state, and the intermediate points to, but not including Moberly, Missouri, they receive 30 per cent.

With respect to Arkansas traffic via Kansas City, there are in effect specific arrangements which, however, do not cover the entire state. There is in effect a general arrangement on traffic to and from Fort Smith, which is located near the western border in the northern half of the state, under which the lines north receive 40 per cent on Chicago traffic, 32 per cent on St. Louis traffic, 32 per cent on Omaha-Davenport traffic west of the Mississippi river, and 35 per cent on Omaha-Davenport traffic east of the Mississippi river (4212).

This division also applies on traffic to and from Van Buren and Greenwood, Arkansas. An exception to this general application is found in the case of traffic to and from Fort Smith on which the lines north of Kansas City on traffic to and from Chicago and Milwaukee territories receive 45 per cent on the first four classes, and 50 per cent on the last six classes, and on commodities so classified. On traffic taking higher than the Chicago rates, the lines south of Kansas City receive Chicago revenue. The percentages to and from points in northwestern Arkansas,

such as Gravette and Siloam Springs are contained in western trunk line division sheet No. 315. The other divisions referred to are contained in Missouri Pacific division sheet No. 786-A, Kansas City Southern, Port Arthur route 186-B, and St. Louis-San Francisco No. 1-C. The grouping north is controlled by the rate application which is shown in Leland's territorial directory No. 1-G. The application of rates to and from Fort Smith differs from [fol. 187] the rate application in the balance of the state, and it has, therefore, become necessary for us to prepare a map showing the Fort Smith application. This map is introduced as exhibit A-28 (4213).

[fol. 188] This exhibit A-28 shows the rate groupings to and from Fort Smith. The other groups that you have testified about in connection with these other percentages to and from Arkansas via Kansas City are in the same groupings as shown on the maps referring to the Chicago group, the Omaha-Davenport group, etc., already in the record. I will follow this up with the introduction of another map containing the groupings to and from Arkansas points other than Fort Smith.

The map just introduced as exhibit A-28 is headed "Rate groupings to a..d from Fort Smith, Arkansas, via Kansas City, F. A. Leland's territorial directory No. 1-G, I. C. C. No. 1665" (4214). The Fort Smith divisions are not the same as the divisions for the other Arkansas points.

I would like to introduce as map headed "Rate groupings to and from Arkansas, except Fort Smith, and Missouri via Kansas City, F. A. Leland's territorial directory 1-G, I. C. C. No. 1665." This map was thereupon received in evidence (4215).

[fol. 189] There is also attached to this map a statement showing basis for divisions on Arkansas traffic via Kansas City, and a map of Arkansas on which points such as Fort Smith and Little Rock are encircled in blue. On traffic to and from Arkansas points on the Kansas City Southern, except Texarkana, the lines to Chicago and also to the intermediate Davenport group receive 25 per cent north of Kansas City. On traffic to and from points taking higher than the Chicago rates, the lines south of Kansas City receive Chicago revenue (4215).

The Texarkana divisions, as I previously explained, are contained in Leland's division sheet No. 40, which also carries the divisions to and from Texas points.

On traffic to and from Little Rock, no divisions are provided to and from Chicago and Milwaukee.

On traffic to and from points in Chicago territory on and west of the Mississippi river, the allowance east of Kansas City is 23 per cent, and on business to and from the Davenport group, 21 per cent.

On traffic to and from Des Moines and Omaha territories, the lines north receive Davenport revenues while to the territory north of Omaha and Chicago the lines south of Kansas City receive the same revenue as on traffic to and from Chicago territory west of the Mississippi river. These divisions are shown in St. Louis-Southwestern percentage sheet No. 1450, and Missouri Pacific division sheet No. 436-A.

In connection with these maps we have prepared a statement which is appended and which shows the proportion north of Kansas City to and from the various groups designated on the map of Arkansas opposite which there appear the letters A to G, which correspond with the divisions shown on the statement (4216).

[fol. 190] The statements last referred to show the percentages applying to and from the particular points shown thereon. The grouping is somewhat limited and we have, therefore, taken out representative points in order to illustrate in general what the divisional situation is. The "Atlantic" referred to thereon is a specific point in Iowa, and that is true of all of the others there. In some cases these percentages are grouped. In other cases they are not so grouped. But I have explained somewhat generally the group application between Chicago and the intermediate points in my explanation.

The next exhibit which I would like to introduce, A-30, is a statement showing basis for divisions on Louisiana traffic via Kansas City, attached to which is a map of Louisiana.

This exhibit A-30 was received in evidence (4217).

[fol. 191] On Louisiana traffic via Kansas City the divisions provided generally apply from point to point, or with

a limited group application at points north of Kansas City. We have, however, undertaken to set out the situation as clearly as possible by drawing a map indicating origin territory to and from which percentages are published, and have also shown on a separate statement the divisions to and from these points and representative northern destinations. The map of Louisiana shows the points which are designated by the letters A to G, inclusive, and the group lettering appearing on the left hand column of the statement of divisions shows *that* the percentages north of Kansas City to and from points such as Chicago, St. Paul, Milwaukee and other points located in the states of Illinois and Wisconsin. New Orleans is shown on the map but may be excluded from consideration. That is true of Baton Rouge also.

A question was raised as to whether Mississippi river points are involved in this case, such as Vidalia, Louisiana, and Helena, Arkansas. It was ruled that they are involved until withdrawn, and counsel for the complainants was subsequently to make a statement to clear up that question.

Exhibit A-31, a map covering the southwestern lumber divisions, was thereupon offered and received in evidence (4220).

[fol. 192] Exhibit A-31 which was headed "Divisions north of Kansas City on Southwestern Lumber" shows in red the proportions on lumber from the territory south of Kansas City, within the boundary lines of the territory circled in blue pencil. These divisions were taken from F. A. Leland's Division sheet No. 27-C which is Western Trunk lines division sheet No. 520-D, which is applicable to what is known as Western Trunk line territory; and F. A. Leland's division sheet No. 558-A, Illinois Freight Association division sheet No. 12-A, which applies to what is known as Illinois Freight Association territory, and which includes the central and northern parts of Illinois and Wisconsin north and south of a line drawn from Milwaukee to Prairie du Chien via Watertown and Madison.

On this map the red figures show the proportions in cents per one hundred pounds.

In connection with this map, there was also offered and received in evidence exhibit A-32 (4222).

[fol. 193] Exhibit A-32 is a statement showing rates and divisions via Kansas City on lumber from points in the Southwest to points in Western Trunk line territory including Illinois. The rates and divisions are stated in cents per one hundred pounds. Opposite the letters Y P under the heading in the second column, designated "Commodity," are the divisions applicable on yellow pine and cypress lumber. The letters H, W represent hardwood lumber, that is lumber other than yellow pine and cypress. The divisions shown in this statement north of Kansas City conform to the divisions shown on the map which has been designated No. 31. The origin territory includes points in the state- of Missouri, Oklahoma, Arkansas, Louisiana and Texas. The map and the divisions shown apply only on lumber routed through Kansas City. The divisions are the divisions applicable north of Kansas City. Lumber is one of the principal commodities as to which special divisions apply. I mentioned quite a list of them in describing the general divisions, but with respect to many of those excepted commodities, there is not much movement, it is a sort of special movement. Sometimes an exception is made because of a local situation, or combination rates, or restrictions to local rates either north or south of the junctions between Illinois, Western Trunk line, and Southwestern lines.

There is a heavy movement of lumber, and the divisions are specifically stated in cents per one hundred pounds north and south of the junctions.

I have made an investigation of the age of these divisions particularly with respect to the Texas situation. I have in my possession a copy of division sheet No. 102, issued by the Chicago and St. Louis Traffic Association which bears [fol. 194] the effective date of April 25, 1896. This issue sets forth divisions between Chicago and East St. Louis, East Hannibal, East Louisiana, and Cairo, Illinois, on traffic to and from Texas; Louisiana, including Shreveport and Monroe; Missouri, New Mexico, Arizona, the Republic of Mexico, Indian Territory; also Kansas, Colorado and Utah, except via the Chicago and North Western and Chi-

cago, Milwaukee & St. Paul, via which lines special exception is made; also points on connecting lines in Illinois east and south of East St. Louis. This division authority on sheet 2 shows that on traffic to or from points in Chicago territory and points in Texas and Louisiana taking Texas common point rates or higher, and East St. Louis, East Hannibal and East Louisiana, the lines north will receive 20 per cent on all classes and commodities in effect between Chicago and Texas common point territory, observing agreed Texas differentials as minimum and local rates between Chicago and East St. Louis, East Hannibal or East Louisiana as maximum proportions to the lines east of the Mississippi river.

In the body of the tariff there are shown specific arbitraries on a number of commodities applicable on Texas traffic. This division sheet cancelled division sheet No. 99, of which I have no copy. I find that subsequent to this division sheet there was published a division sheet known as southwestern tariff committee division sheet. We are unable to run this division sheet back to its origin date, but we find in division sheet No. 15, issued by George W. Cahill, chairman of the Southwestern Tariff Committee, on June 14, 1902, a division on traffic between Chicago territory and Texas points taking common point rates or lower, north of East St. Louis on carloads of 17.5 per cent and on less than carload of 20 per cent.

[fol. 195] In Supplement No. 8 to the same division sheet, effective July 15, 1902, in item No. 376 on page 2, this division appears as 20 per cent on all traffic. The original division sheet, Southwestern Tariff Committee division sheet No. 15, effective July 15, 1902, also shows in item No. 23 on page 6, which is a double page, a division of 25 per cent via Kansas City on traffic between Chicago territory and Texas points taking common point rates or lower (4227). On page 2, which is a double page, Supplement 8 to the same division sheet effective August 20, 1902, there is shown item No. 371, amending item No. 23 of the original tariff, and this division sheet shows a percentage of 30 per cent north of Kansas City on traffic between Chicago and points taking the same rates, and Texas points taking Texas common point rates or lower.

With respect to Illinois Freight Association division sheet No. 3 series, it may be stated that there is a record of

the arrangement under which bridge arbitraries will be deducted from the Missouri river rate, and the balance subdivided east of the Mississippi river, 47.5 per cent, as far back as March 11, 1896, at which time reference was made to this arrangement, and in addition it was stated that:

"On business to and from Peoria and points taking the same rates, the proportions east of the Mississippi river shall be the Chicago divisions, less the difference between the Chicago and Peoria through rates.

"In no case shall lines east of the Mississippi river receive proportions in excess of those shown in Chicago and St. Louis Traffic Association division sheet No. 99"

which as I previously explained, was cancelled by division sheet No. 102, which took effect April 25, 1898.

[fol. 196] The present divisions on oil from Oklahoma to Western Trunk line territory via Kansas City were arrived at in the following manner:

Following the decision of the Interstate Commerce Commission in the Mid-Continent case, in which rates were fixed on oil from Kansas and Oklahoma points to Western Trunk line territory, the question of divisions arose, and this subject was disposed of by arbitration, the arbitrators being Mr. E. B. Boyd and Mr. W. A. Peteet. The divisions now in effect from Oklahoma on oil were those fixed by those arbitrators representing the Western Trunk lines and the Southwestern lines, respectively (4228). The exposition of the divisions which I have made is general. I have undertaken to outline the general basis of divisions, and I have not discussed the situation in minute detail. It was necessary for me to confine myself to this presentation for the reason that practically every divisional basis is subject to exceptions. The divisions as given do not always apply via all lines and via all routes, and therefore the presentation that I have made is general, and takes in only the fundamentals, and not the detailed situation.

[fol. 197] E. J. SCHMIDT

My name is E. J. Schmidt. I am chief of Tariff Bureau, Chicago & Eastern Illinois Railway Company. I have

charge of all division matters for my company. My testimony is to be on behalf of all lines operating north from East St. Louis, Cairo, Gale and Thebes, Illinois, and will be confined wholly to the lumber divisions from the Southwestern territory via Cairo, Gale, Thebes and East St. Louis.

Examiner Disque: How does Cairo get in? I thought we eliminated Cairo yesterday. I thought everything south of Thebes on the Mississippi river was eliminated.

Mr. Larimore: I asked yesterday about Cairo because it was north of the Ohio river and the Examiner said that you could not cross the river at Cairo, so then I quit.

Here follows a colloquy between counsel, and it was finally stated by Mr. Towner that complainants would have made a definite list of the division points that were to be considered so that there would be no misunderstanding on the record as to what was taken out.

The witness then resumed: The divisions accruing to the lines north of Gale, Thebes or East St. Louis, out of the through rates on lumber appearing in F. A. Leland's I. C. C. 1763, tariff 110-B, or in individual issues applying to Illinois, Upper Peninsula of Michigan, and Wisconsin, are provided for in Southwestern Lines division sheet No. 47-A, which is Western Trunk Line division sheet No. 558-A, Illinois Freight Association division sheet No. 12-A. I think that that sheet has been tendered in the record. The divisions accruing to lines north of East St. Louis, Illinois, applying in connection with rates published in Southwestern Lines tariff No. 77 series, I. C. C. No. 1747, are provided for in Southwestern Lines division sheet No. [fol. 198] 27-C, Western Trunk Line division sheet No. 520-D.

To properly explain the proportions shown in these division sheets necessitates a brief review of the manner in which the rates were constructed prior to the rate changes, due to the fact that the rates on lumber from the Southwest have always divided in accordance with the manner in which they were constructed.

The Southwestern lumber producing territory is divided into several groups, rate groups. There is a group south of the Arkansas River, commonly known as the yellow pine blanket, which takes in points in Arkansas, practically

the entire state of Louisiana, and points in Texas and Oklahoma.

I have prepared a map which will indicate the different lumber rate groups as of June 24, 1918, to Thebes, Illinois, Thebes being the rate making point at that time.

Said map was identified as exhibit A-33 and was offered and received in evidence (4241).

[fol. 199] This map was prepared from the tariffs that we had available in our office, showing the different rates from the different rate groups up to Thebes, Illinois. We were short some tariffs, however, and consequently we were not able to incorporate the figures showing the rates to Thebes as of that date.

The map indicates two sets of figures in some instances, and the larger figure indicates in all cases the rate on yellow pine lumber, and the smaller figure the rate on hardwood, to Thebes, Illinois.

It will be noted from the map that from the territory north of the Arkansas river, which I think has been shown in a sort of green line extending from the Arkansas State line over to the Mississippi river,—and there appears to be a brown line mixed in there also—that has been separated into different rate groups indicating that the rates on lumber from the territory north of that line were graded from a figure of 15 cents down to as low as 4 cents per one hundred pounds.

These rates were practically in all cases published in the tariffs as basing rates to Thebes, and to those rates were added the local rates of lines north of Thebes; that combination resulting in practically all cases in the lowest through rates. There were many instances, however, we found where the rates were constructed on the East St. Louis combination from points directly south of St. Louis and west of East St. Louis. However, we were not able to turn up the old tariffs to indicate just what points they were, and it would be quite difficult to map them out. At any rate, there were a number of points where the rates were constructed on the full East St. Louis combination, and in the division of those rates the lines north of East St. Louis received their full local rates.

[fols. 200 & 200½] As I stated, where the Thebes combination made the rate on June 24, 1918, the lines north of Thebes in every instance received the full tariff rates from that gateway, and where the St. Louis or East St. Louis combination made the rates, the lines north of those gateways received their full local rates.

Answering the question as to what would be the result if the traffic moved through both gateways, across the river to Thebes, and then up to St. Louis or East St. Louis, I will state that I will hereafter come to the divisional basis for East St. Louis. There was a different basis in effect on lumber crossing the river at Thebes, and then moving through East St. Louis. Under General Order No. 28, the rates were increased 25 per cent, subject to a maximum advance of five cents per one hundred pounds, and under Ex Parte 74 again increased 35 per cent, and reduced 10 per cent under the Commission's decision in Docket 13293.

I think there was some readjustment made, however, prior to the July 1st reduction in the Southern Hardwood case, I. C. C. Docket No. 12995, but the rates in effect at the present time I think I can safely say reflect the Thebes combination of June 24, 1918, increased 25 per cent, subject to a maximum of five cents, and reduced ten per cent. So I did not go into detail at all, or I will not go into detail as to the rates made effective under the Hardwood Case, because they are ten per cent under the August 26, 1920, rates.

Also, there have been some changes in the rates into Western Trunk Line territory, and I think a certain territory in Illinois, occasioned by fourth section complications.

I have stated that, as to certain territories, the rates divided so as to give the north lines their full local rate. [fol. 201] Answering the question as to whether in those instances the southwestern lines also get their full local rate, they get such full local rates where the full local rates south were used as a factor in constructing the rate. In some cases, as I have also explained, the Southwestern lines published these rates, for illustration, on the hardwood lumber, as basing rates, whereas they might not have published that particular rate as a local rate, but gener-

ally speaking, the southwestern lines received their full local rate up to Thebes.

I have endeavored to indicate that the current rates generally speaking were published on the Thebes combination as of June 24, 1918, and it is quite natural to assume that the current divisions via Thebes, or East St. Louis, were based on a parity, using the factors in effect immediately prior to June 24, 1918. But unfortunately, that basis is not the present basis for divisions on lumber from the southwest. They are arrived at in a very peculiar manner, and in my opinion, all things considered, it is going to be a little difficult to explain them clearly. The rates via Thebes were divided on basis of a pro rate, using as factors the rate of 16 cents up to Thebes and the local rate north. Those factors were reconstructed into per cents, and applied to the rate in effect in the southwestern blanket group. In other words, the territory north of the blanket group was not given any consideration in arriving at the proportions accruing to the lines north of Thebes (4246).

The records in the files of the Illinois Rate Association and the southwestern lines contain the following, which is supposed to indicate the basis for divisions via Thebes, Illinois—that is, from all points shown in my previous exhibit, including southeastern Missouri:

[fol. 202] "The divisions via Cairo, Gale and Thebes to be based on an actual revenue pro rate as of June 24, 1918, using as factors the local rate of 16 cents to Cairo, Gale and Thebes, and local rates north thereof, as appearing in W. J. Kelly's freight tariff No. 65-E, I. C. C. No. 691, applied to the rate in effect from the southwestern blanket."

I am quoting the above because the word "actual" as used seems to me to be misleading; and, in that an actual pro rate was not used, I wanted to indicate it, that is to avoid any possibility of misunderstanding. In fact, I want to say that the rates were not based on an actual revenue pro rate.

I have prepared another exhibit which merely shows the rates, the current rates, and divisions from respective points in the southwest to points in Illinois and Wisconsin; and the reason I have confined this statement to the Illinois and

Wisconsin points is because of the fact that there is not a complete line of rates in via Thebes to Western Trunk line territory as a whole.

This exhibit A-34 was thereupon offered and received in evidence (4247).

I find I have neglected to show the tariff authorities for the local rates as appearing on this statement south of Thebes, Illinois; and I would like to add that from the points that we have used, the tariff authorities for the local rates are as follows:

Missouri Pacific I. C. C. No. A-5957; St. Louis-Southwestern I. C. C. No. 4231; Chicago, Rock Island & Pacific I. C. C. No. C-11423.

As to divisions via East St. Louis to Illinois Rate Committee territory and western trunk line territory, I would like to offer a map which we have prepared showing the [fol. 203] proportions in cents per hundred pounds north of East St. Louis on lumber from the southwestern producing territory, and was also offered and received in evidence exhibit A-35 (4248).

The red figures shown on this map are in cents per one hundred pounds and represent the proportions north of East St. Louis, irrespective of the origin of the traffic from the southwest.

Answering the question as to how we get proportions north of East St. Louis on traffic to Des Moines, I was going to mention that to some of this western territory, the divisions apply either via St. Louis or East St. Louis. I might state that right now the southwestern lines divisions sheet applying in connection with tariff 77 indicate to the southwestern territory that the divisions apply either via St. Louis, Missouri, or East St. Louis, Illinois. By western territory, I mean, the territory west of the Mississippi river. That does not include Wisconsin. Those divisions apply north of East St. Louis, Illinois. Illinois is north of East St. Louis. I think, however, that there may be some arrangements in effect with some line,—or least it has been so indicated to us,—that some of the lines are not applying the Illinois Freight Association basis for divisions north of East St. Louis as provided for in the sheet. In other words, there was a sort of equalizing basis put in

where on lumber from the west side moving up the west side lines via St. Louis, the division would be the bridge arbitrary higher than the east side division.

The divisions via East St. Louis to points shown in southwestern lines division sheet No. 47-A are arrived at as follows: To Chicago, Chicago district, points taking Chicago rates from the southwest blanket, and from Thebes, Illinois, the lines north of East St. Louis receive 28.9 per cent of the rate in effect from the southwest blanket group.

To all other points in Illinois on and north of the line of [fol. 204] the Baltimore & Ohio, the lines south of East St. Louis receive Chicago revenue except as follows:

To points in Illinois taking East St. Louis rates, the lines north of East St. Louis receive 3.6 cents per one hundred pounds. To points in Illinois on the Chicago & North Western, Chicago, Milwaukee & St. Paul and the Minneapolis, St. Paul & Sault Ste. Marie intermediate with Milwaukee, to which the rates from the southwest blanket are the same as to Milwaukee, but to which the rate from Thebes is higher than to Chicago, but less than Milwaukee from Thebes, the lines north of East St. Louis are to be allowed the Milwaukee revenue.

I have tried to study that paragraph time and again, Mr. Examiner, to find out what it really means, but I have not had the time to do it. Anyway, the divisions were checked in in accordance with that paragraph, and whatever it means is for somebody else to determine, I think.

To points in Wisconsin taking Milwaukee rates from the southwest blanket, and from Thebes, the lines north of East St. Louis will receive 13 cents. That division, however, does not apply in connection with the Cotton Belt. The Cotton Belt would not subscribe to an allowance of 13 cents north of East St. Louis on traffic to Milwaukee, and in that the basis for divisions to Milwaukee is not provided for in the east, I have no knowledge of what the divisions operated by the Cotton Belt are on southwest lumber to Milwaukee through East St. Louis.

To other points in Wisconsin, in Illinois Rate Committee territory, taking higher than Milwaukee rate from the southwest blanket and from Thebes, and to which the through rate on June 24, 1918, based on combination via Thebes, the proportions north of East St. Louis are based under an allowance of 3 cents from Thebes to East St.

[fol. 205] Louis, and 3 cents less than the local rate from Thebes as of June 24, 1918, reconstructed into per cents, and applied to the current through rates.

To points in Wisconsin in western trunk line territory, the divisions are based on 16 cents to Thebes, 3 cents from Thebes to East St. Louis, and the balance of the June 24, 1918, rate north, such factors reconstructed into per cents, and applied to the rate in effect from the southwest blanket.

To other points in western trunk line territory, including points west of the Mississippi river, the divisions were based on a pro rate as of June 24, 1918, using the rates and divisions in effect from the southwest blanket, reconstructed into per cents, and applied to the current rate from the southwest blanket.

I prepared an exhibit indicating the divisions north and south of East St. Louis to go along with the map.

This exhibit, A-36, was offered and received in evidence (4252).

I would not like to say how long these divisions have been in effect, but the divisions were finally agreed upon October 1, 1924, the rate changes having been made on August 26, 1920, and prior thereto. In the intervening period, we reduced the transfers of the western lines and took what we really thought was the proper division; but finally the carriers got together, supposedly, and the result is, the basis for application that I have described. This exhibit that I have just introduced will indicate in many instances the lines south of East St. Louis today are receiving their full local rates on lumber from the southwest, those local rates up to East St. Louis reflecting a full 25 per cent increase in the rates, and 35 per cent under Ex Parte 74, and a reduction of 10 per cent, regardless of the fact that the rates north, or the through rates, were increased under General Order No. 28 approximately to a large part of this territory, only around 18 per cent.

[fol. 206] I have previously indicated that the divisions to Chicago are 11.4 cents from East St. Louis, and that figure was arrived at on the basis of 28.9 per cent; and I presume it would be interesting to know how this 28.9 per cent was arrived at.

Following the return of the roads to corporate control the question of the division of the increased rates on lum-

ber was discussed in various conferences with the southwestern lines. The lines north of East St. Louis were of the opinion that the proper divisions from the southwest blanket as of June 25, 1918, would be 10 cents per one hundred pounds, based on a local rate of 19 cents south of East St. Louis, and the balance of the through rate in effect on June 24, 1918, 27.5 cents, or 8.5 cents as the factor north. Those factors of 19 and 8.5 resulted in percentages of 69.1 per cent south of East St. Louis and 30.9 per cent north, which, applied to the 32.5 cent rate as of June 25, 1918, would have resulted in the 10 cent division which I have mentioned.

The southwestern lines, however, insisted that the June 25, 1918, rates be divided north and south of Thebes on a basis of 16 cents south and 11.5 cents north and then subdivided via East St. Louis on per cents. That resulted in a figure of 8.8 cents as of June 25, 1918, or an increase of .3 cents north of East St. Louis out of the 5 cent maximum advance,—assuming of course that the local rate south of East St. Louis was the proper figure. The factor of 8.8 cents increased 35 per cent under Ex Part- 74, because 13.5 cents under the northern lines' position, and 11.9 cents under the position of the southwestern lines. The difference of 1.6 cent was split fifty-fifty, and the proportion as of August 28, 1920, from East St. Louis to Chicago became 12.7 cents, or 28.9 per cent of a rate of 44 cents, which was in effect at that time from the southwest blanket. That [fol. 207] figure reduced 10 per cent is now 11.4 cents, and is the division in effect on all lumber from the southwest blanket to Chicago. It is applied, as I have stated, on all lumber irrespective of the origin of the traffic, and regardless of the fact that an actual pro rate as of June 24, 1918, from the territory taking less than 16 cents as of that date, to Thebes, and regardless of the fact that the East St. Louis combination made the rate in many cases, would have resulted in greater proportions to the lines north of East St. Louis. The 13 cent division to Milwaukee is also an arbitrary basis for divisions, there having been in effect I think with some of the southwest lines a division as of June 24, 1918, of 17.5 cents from the southwest blanket to East St. Louis, and 9 cents north. Those factors resulted in 33.96 per cent of the June 24, 1918, rate, reconstructed

into per cents; and applied to the different rate changes, now results in 13 cents from East St. Louis to Milwaukee (4255).

Mr. W. E. Davis: I would like, for the Kansas City Southern, to make a correction in the appearance shown here. I am credited with having entered the appearance of the Texarkana and Fort Smith Railway. It is not a party to the order in this case, and is not a party respondent. I should, therefore, like to make the correction.

Exam. Disque: All right.

[fol. 208] B. F. Parsons

My name is B. F. Parsons. I am general freight agent of the Chicago Great Western Railroad. I have been engaged in the railroad business since about 1900, for ten years with the Chicago & Alton railroad, and for the past fifteen years with the Chicago Great Western Railroad.

I have charge of rates and divisions and related matters for the Chicago Great Western and have had occasion to make a good deal of a study in connection with the matters involved in this proceeding.

Exhibit A-37 was then offered and received in evidence (4258).

This exhibit, A-37, consisting of two pages, shows on the first page the population in each decade of the states within which the divisions and traffic involved in this proceeding apply.

The information is taken from the United States census, and in showing it in the exhibit I have grouped together the four states of Illinois, Iowa, Minnesota and Wisconsin as constituting the major portion of the western trunk line group. The western trunk line group also includes the upper peninsula of Michigan, for which I did not have separate population statistics, and the northern half of the state of Missouri, but as the state of Missouri is situated partly in western trunk line and partly in the southwestern group, I have shown it separately.

For the southwestern group I have shown the states of Arkansas, Kansas, Louisiana, Oklahoma and Texas.

The figures indicate in a general way the periods during which these states were increasing most rapidly in population and are more readily compared by use of the figures at the right hand of the sheet, showing the density of the population per square mile of territory.

[fol. 209] It will be observed that while in 1870 the four western trunk line states had a population of something over five million, the population at that time in the southwestern states was about 2,400,000.

The reason why Kansas was put in the southwestern states is that many of the routes over which the traffic would move to and from the southwest would pass through the state of Kansas. The state of Kansas as to the traffic originating or terminating in that state is not involved, but as many railroads operate through a part of Kansas, I included it in this showing. The only Western Trunk line that I know of passing through the state of Kansas in going to Kansas City, for instance, is the Chicago Great Western which operates down the west bank of the Missouri river from Leavenworth to Kansas City under a trackage arrangement with the Missouri Pacific. Of course, that traffic might move through Omaha or South Omaha and thence Missouri Pacific, and would go down the states of Nebraska and Kansas to Kansas City. The Burlington route is down the east bank of the Missouri river from Council Bluffs. They have a line on the west side, but I think the traffic is all handled on the east side line. It is 24 miles from Leavenworth to Kansas City over the Great Western.

The population of the five southwestern states which in 1870 was about 2,400,000 has grown in 1920 to about twelve million. In other words, while those five states had less than half the population of the four western trunk line states in 1870, by 1920 they had approached within less than two million of the population of the four western trunk line states, indicating a marked change in conditions during that period, and following the natural settlement of the country which proceeded from east to west.

In the western trunk line states the more rapid increase in population was prior to 1900, while in the southwestern states it has continued quite regularly up to the present time.

[fol. 210] The second sheet of the exhibit is devoted to the railroad mileages in the same states and covers the period from 1870 to 1923. The figures for 1870 and 1880 reflect mileage operated, while for the other five years shown they reflect mileage owned.

There it will be seen that there was a very rapid growth in the railroad mileage in the western trunk line states up to about 1890, and then a much slower increase up to the present time, with almost no change, that is, no change of any moment, since 1910.

In the southwestern states the greatest growth in mileage was in the decades ending with 1890 and 1910 and with a very small growth since 1910.

The statement reflects the rate of railroad development in the various states and indicates the periods of time in which the largest development took place.

Exhibit A-38 was thereupon offered and received in evidence (4261), which said exhibit, omitting title page, is in words and figures as follows:

(Here follows Exhibit A-38, Parsons, side folios 211, 212, and 213)

[fol. 211]

Ex. A–38, Parsons

Page 1

I. C. C. Docket 15234

Average Operating Revenues and Expenses per Mile of Road and Operating Ratio of Various Respondent Carriers,

Railroad	Year ended June 30, 1890				Year ended June 30, 1895				
	Revenue per mile of road	Operating expenses per mile of road	Net revenue per mile of road	Operating ratio	Revenue per mile of road	Operating expenses per mile of road	Net revenue per mile of road	Operating ratio	Reve per m of ro
Chicago & Alton	$9 501	$5 739	$3 762	60.41%	$8 298	$4 604	$3 694	55.48%	$9 2
C. & E. I.	6 689	4 008	2 681	59.92	7 177	4 477	2 700	62.38	7 3
a–C. & N. W.	6 445	4 006	2 439	62.16	5 606	3 460	2 146	61.72	7 7
a–C. B. & Q.	8 098	5 181	2 917	63.97	7 024	4 159	2 865	59.22	8 3
C. G. W.	4 810	3 940	870	81.91	3 886	3 383	503	87.05	7 2
C. M. & St. P.	4 656	2 886	1 770	61.99	4 431	2 598	1 833	58.63	6 5
a–C. St. P. M. & O.	5 232	3 514	1 718	66.84	4 902	3 228	1 674	65.86	7 1
Illinois Central	6 313	3 855	2 458	61.07	6 560	4 243	2 317	64.68	7 8
M. & St. L.	4 336	2 749	1 587	63.38	5 094	2 916	2 178	57.24	5 2
b–M. St. P. & S. S. M.	5 513	3 537	1 976	64.16	4 677	3 049	1 628	65.18	5 9
Q. O. & K. C.	.....	.....	.....	.....	1 754	1 292	462	73.64	.....
c–Wabash	6 031	4 393	1 638	72.84	5 435	4 044	1 391	74.40	6 8
Y & M. V.	.....	.....	.....	.....	4 127	2 837	1 290	68.75	5 2
d–A T. & S. F.	4 375	2 596	1 779	59.34	4 255	3 366	889	79.10	6 2
B. S. L. & W.	.....	.....	.....	.....	.....	.....	.....	.....	.....
C. R. I. & Q.	.....	.....	.....	.....	4 514	2 909	1 605	64.45	5 9
d–C. R. I. & P.	2 762	1 892	870	68.48	2 502	1 928	574	77.05	4 2
Ft. W. & D. C.	3 685	2 238	1 447	60.74	2 816	1 949	867	69.23	3 4
e–G. H. & S. A.	5 812	3 846	1 966	66.18	5 021	3 370	1 651	67.12	6 7
G. C. & S. F.	4 168	3 349	819	80.35	5 062	4 093	969	80.85	5 3
H. & S.	.....	.....	.....	.....	.....	.....	.....	.....	3 6
H. & T. C.	.....	.....	.....	.....	8 903	5 763	3 140	64.34	7
H. E. & W. T.	2 155	1 598	557	74.12	2 968	1 785	1 183	60.14	4 1
I. G. N.	4 750	3 795	955	79.89	4 503	3 052	1 451	67.77	5
K. C. M. & O.	.....	.....	.....	.....	.....	.....	.....	.....	.....
K. C. M. & O. of Tex.	.....	.....	.....	.....	.....	.....	.....	.....	.....
K. C. S.	.....	.....	.....	.....	1 898	1 424	474	74.83	4
K. O. & G.	.....	.....	.....	.....	.....	.....	.....	.....	.....
K. O. & G. of Tex.	.....	.....	.....	.....	.....	.....	.....	.....	.....

erating Revenues and Expenses per Mile of Road and Operating Ratio of Various Respondent Carriers, 1890, 1895, 1900

Year ended June 30, 1890				Year ended June 30, 1895				Year ended June 30, 1900			
Revenue per mile of road	Operating expenses per mile of road	Net revenue per mile of road	Operating ratio	Revenue per mile of road	Operating expenses per mile of road	Net revenue per mile of road	Operating ratio	Revenue per mile of road	Operating expenses per mile of road	Net revenue per mile of road	Operating ratio
$9 501	$5 739	$3 762	60.41%	$8 298	$4 604	$3 694	55.48%	$9 248	$5 389	$3 859	58.27%
6 689	4 008	2 681	59.92	7 177	4 477	2 700	62.38	7 386	4 219	3 167	57.13
6 445	4 006	2 439	62.16	5 606	3 460	2 146	61.72	7 788	4 737	3 051	60.81
8 098	5 181	2 917	63.97	7 024	4 159	2 865	59.22	8 396	5 173	3 213	61.68
4 810	3 940	870	81.91	3 886	3 383	503	87.05	7 202	5 229	1 973	72.62
4 656	2 886	1 770	61.99	4 431	2 598	1 833	58.63	6 506	4 218	2 288	64.83
5 232	3 514	1 718	66.84	4 902	3 228	1 674	65.86	7 179	4 316	2 863	60.12
6 313	3 855	2 458	61.07	6 560	4 243	2 317	64.68	7 861	5 021	2 840	63.88
4 336	2 749	1 587	63.38	5 094	2 916	2 178	57.24	5 237	2 948	2 289	56.29
5 513	3 537	1 976	64.16	4 677	3 049	1 628	65.18	5 931	4 126	1 805	69.57
.....	.....	.....	.....	1 754	1 292	462	73.64	.....	.....	.....	.....
6 031	4 393	1 638	72.84	5 435	4 044	1 391	74.40	6 862	5 325	1 537	77.60
.....	.....	.....	.....	4 127	2 837	1 290	68.75	5 297	3 212	2 085	60.70
4 375	2 596	1 779	59.34	4 255	3 366	889	79.10	6 225	3 637	2 588	58.43
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	4 514	2 909	1 605	64.45	5 991	4 766	1 225	79.55
2 762	1 892	870	68.48	2 502	1 928	574	77.05	4 278	3 023	1 255	70.66
3 685	2 238	1 447	60.74	2 816	1 949	867	69.23	3 481	2 662	819	76.48
5 812	3 846	1 966	66.18	5 021	3 370*	1 651	67.12	6 711	5 455	1 256	81.28
4 168	3 349	819	80.35	5 062	4 093	969	80.85	5 312	3 969	1 343	74.71
.....	.....	.....	.....	.....	.....	.....	.....	3 618	2 510	1 108	69.39
.....	.....	.....	.....	8 903	5 763	3 140	64.34	7 536	5 384	2 152	71.45
2 155	1 598	557	74.12	2 968	1 785	1 183	60.14	4 135	2 560	1 575	61.90
4 750	3 795	955	79.89	4 503	3 052	1 451	67.77	5 067	3 627	1 440	71.58
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	1 898	1 424	474	74.83	4 903	3 959	944	80.75
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....

K. O. & G.	.....	.....	.....	.....	.....	.....	.....	.....	....
K. O. & G. of Tex.	.....	.....	.....	.....	.....	.....	.....	.....	....
L. R. & N. Co.	.....	.....	.....	.....	.....	.....	.....	.....	....
L. R. & N. Co. of Tex.	.....	.....	.....	.....	.....	.....	.....	.....	....
La. Western	.....	.....	.....	.....	.....	.....	.....	.....	....
M. K. T.	5 268	4 035	1 233	76.60	6 417	3 852	2 565	60.02	5 9
M. K. T. of Tex.	4 351	3 376	975	77.60	4 729	4 231	498	89.24	5 5
Mo. Pac.	4 363	3 050	1 313	69.82	3 311	2 641	670	79.77	4 5
f-M. L. & T.	.....	.....	.....	.....	10 474	6 472	4 002	61.79	11 0
N. O. T. & M.	.....	.....	.....	.....	.....	.....	.....	.....	....
P. H. & S. F.	.....	.....	.....	.....	.....	.....	.....	.....	....
St. L. B. & M.	.....	.....	.....	.....	.....	.....	.....	.....	....
St. L. S. F.	4 811	2 618	2 193	54.42	4 511	2 741	1 770	60.76	5 6
St. L. S. F. & Tex.	.....	.....	.....	.....	.....	.....	.....	.....	....
St. L. S. W.	.....	.....	.....	.....	5 304	3 688	1 616	69.52	5 9
St. L. S. W. of Tex.	.....	.....	.....	.....	3 613	3 051	381	84.45	3 5
S. A. & A. P.	.....	.....	.....	.....	3 131	2 052	1 079	65.38	3 0
T. & Ft. S.	.....	.....	.....	.....	1 214	842	372	69.35	....
Texas & N. O.	.....	.....	.....	.....	7 855	4 672	3 183	59.48	5 5
Texas & Pacific	4 852	3 747	1 105	77.22	5 049	3 577	1 472	70.84	5 5
V. S. & P.	3 659	2 953	706	80.72	3 310	2 349	961	70.96	4 0

See page 2 for footnotes.

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.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
5 268	4 035	1 233	76.60	6 417	3 852	2 565	60.02	5 923	3 497	2 426	59.04
4 351	3 376	975	77.60	4 729	4 231	498	89.24	5 527	4 670	857	84.50
4 363	3 050	1 313	69.82	3 311	2 641	670	79.77	4 557	3 318	1 239	72.82
.....	.....	.....	.....	10 474	6 472	4 002	61.79	11 033	6 829	4 204	61.89
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
4 811	2 618	2 193	54.42	4 511	2 741	1 770	60.76	5 694	3 363	2 331	59.06
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	5 304	3 688	1 616	69.52	5 937	3 500	2 437	58.96
.....	.....	.....	.....	3 613	3 051	381	84.45	3 590	2 745	845	76.46
.....	.....	.....	.....	3 131	2 052	1 079	65.38	3 069	2 421	648	77.75
.....	.....	.....	.....	1 214	842	372	69.35	.....	.....	.....	.....
.....	.....	.....	.....	7 855	4 672	3 183	59.48	5 561	3 816	1 745	68.61
4 852	3 747	1 105	77.22	5 049	3 577	1 472	70.84	5 594	3 967	1 627	70.92
3 659	2 953	706	80.72	3 310	2 349	961	70.96	4 021	2 737	1 284	68.06

Average Operating Revenues and Expenses per Mile of Road and Operating Ratio of Various Respondent Carri

Railroad	Year ended June 30, 1905				Year ended June 30, 1910				R p d
	Revenue per mile of road	Operating expenses per mile of road	Net revenue per mile of road	Operating ratio	Revenue per mile of road	Operating expenses per mile of road	Net revenue per mile of road	Operating ratio	
Chicago & Alton	$12 894	$8 311	$4 583	64.46%	$13 384	$8 657	$4 727	64.67%	$
C. & E. I.	8 986	6 450	2 536	71.78	12 168	8 237	3 931	67.69	
a-C. & N. W.	8 310	5 411	2 899	65.11	9 722	6 836	2 886	70.31	
a-C. B. & Q.	9 642	6 584	3 058	68.29	9 738	6 983	2 755	71.71	
C. G. W.	8 932	6 860	2 072	76.80	8 059	6 272	1 787	75.99	
C. M. & St. P.	7 020	4 326	2 694	61.62	8 633	5 963	2 670	69.07	
a-C. St. P. M. & O.	7 384	4 533	2 851	61.39	8 681	5 687	2 994	65.51	
Illinois Central	10 478	6 875	3 603	65.61	12 720	9 520	3 200	74.84	
M. & St. L.	4 082	2 418	1 564	59.24	4 815	3 328	1 487	69.13	
b-M. St. P. & S. S. M.	6 805	4 856	1 949	71.36	6 837	3 923	2 914	57.37	
Q. O. & K. C.	2 731	2 525	206	92.48	3 251	3 435	Def 184	105.65	
c-Wabash	9 865	8 496	1 369	66.12	11 487	8 167	3 320	71.09	
Y. & M. V.	7 166	5 280	1 886	73.69	7 248	5 614	1 634	77.45	
d-A. T. & S. F.	8 018	5 724	2 294	65.15	11 660	7 500	4 160	64.33	
B. S. L. & W.	1 017	1 289	Def 272	126.68	3 829	2 861	968	74.72	
C. R. I. & G.	4 155	3 138	1 017	75.53	5 840	4 008	1 832	68.63	
d-C. R. I. & P.	5 714	3 844	1 870	67.29	8 409	6 145	2 264	73.07	
Ft. W. & D. C.	5 420	4 198	1 222	77.46	11 542	6 855	4 687	59.39	
e-G. H. & S. A.	7 779	6 082	1 697	78.19	7 901	5 628	2 273	71.24	
G. C. & S. F.	6 680	5 325	1 355	79.72	7 909	6 510	1 399	82.31	
H. & S.	4 631	3 586	1 045	77.43	6 998	3 744	3 254	53.50	
H. & T. C.	7 568	5 652	1 916	74.68	7 224	5 332	1 892	73.81	
H. E. & W. T.	5 706	3 595	2 111	63.00	6 700	4 440	2 260	66.27	
I. G. N.	5 316	3 945	1 371	74.21	7 388	6 080	1 308	82.29	
K. C. M. & O.	1 870	1 384	486	74.00	2 423	2 265	158	93.47	
K. C. M. & O. of Tex.	.....	.....	.....	.....	.....	.....	.....	.....	
K. C. S.	7 849	5 782	2 067	73.67	11 596	7 576	4 020	65.33	
K. O. & G.	1 005	1 268	Def 263	126.15	2 400	2 101	299	87.54	
K. O. & G. of Tex.	.....	.....	.....	.....	.....	.....	.....	.....	
L. R. & N. Co.	2 160	1 677	483	77.64	4 054	3 154	900	77.81	
L. R. & N. Co. of Tex.									

ing Revenues and Expenses per Mile of Road and Operating Ratio of Various Respondent Carriers, 1905, 1910, 1924

Year ended June 30, 1905				Year ended June 30, 1910				Year ended December 30, 1924			
evenue er mile f road	Operating expenses per mile of road	Net revenue per mile of road	Operating ratio	Revenue per mile of road	Operating expenses per mile of road	Net revenue per mile of road	Operating ratio	Revenue per mile of road	Operating expenses per mile of road	Net revenue per mile of road	Operating ratio
12 894	$8 311	$4 583	64.46%	$13 384	$8 657	$4 727	64.67%	$29 361	$22 737	$6 624	77.44%
8 986	6 450	2 536	71.78	12 168	8 237	3 931	67.69	27 582	23 757	3 825	86.13
8 310	5 411	2 899	65.11	9 722	6 836	2 886	70.31	17 660	14 243	3 417	80.65
9 642	6 584	3 058	68.29	9 738	6 983	2 755	71.71	17 293	12 752	4 541	73.74
8 932	6 860	2 072	76.80	8 059	6 272	1 787	75.99	16 528	13 528	3 000	81.84
7 020	4 326	2 694	61.62	8 633	5 963	2 670	69.07	14 414	11 427	2 986	79.28
7 384	4 533	2 851	61.39	8 681	5 687	2 994	65.51	15 959	12 686	3 273	79.49
10 478	6 875	3 603	65.61	12 720	9 520	3 200	74.84	31 282	24 299	6 983	77.68
4 082	2 418	1 564	59.24	4 815	3 328	1 487	69.13	9 165	8 831	334	96.36
6 805	4 856	1 949	71.36	6 837	3 923	2 914	57.37	10 890	8 362	2 528	76.78
2 731	2 525	206	92.48	3 251	3 435	Def 184	105.65	4 193	4 483	Def 290	106.91
9 865	8 496	1 369	66.12	11 487	8 167	3 320	71.09	26 419	20 201	6 218	76.46
7 166	5 280	1 886	73.69	7 248	5 614	1 634	77.45	16 033	11 724	4 309	73.13
8 018	5 724	2 294	65.15	11 660	7 500	4 160	64.33	21 409	15 562	5 847	72.69
1 017	1 289	Def 272	126.68	3 829	2 861	968	74.72	23 225	14 331	8 894	61.70
4 155	3 138	1 017	75.53	5 840	4 008	1 832	68.63	14 512	10 065	4 447	69.35
5 714	3 844	1 870	67.29	8 409	6 145	2 264	73.07	16 316	12 687	3 629	77.76
5 420	4 198	1 222	77.46	11 542	6 855	4 687	59.39	24 462	14 671	9 791	59.97
7 779	6 082	1 697	78.19	7 901	5 628	2 273	71.24	19 103	14 211	4 892	74.39
6 680	5 325	1 355	79.72	7 909	6 510	1 399	82.31	15 782	11 432	4 350	72.44
4 631	3 586	1 045	77.43	6 998	3 744	3 254	53.50	19 922	15 728	4 194	78.95
7 568	5 652	1 916	74.68	7 224	5 332	1 892	73.81	16 820	12 509	4 311	74.37
5 706	3 595	2 111	63.00	6 700	4 440	2 260	66.27	16 711	14 660	2 051	87.73
5 316	3 945	1 371	74.21	7 388	6 080	1 308	82.29	14 576	11 173	3 403	76.65
1 870	1 384	486	74.00	2 423	2 265	158	93.47	8 678	7 697	981	88.70
....	.....	.....	.....	.....	.....	.....	.....	5 725	4 757	968	83.09
7 849	5 782	2 067	73.67	11 596	7 576	4 020	65.33	23 456	17 718	5 738	75.54
1 005	1 268	Def 263	126.15	2 400	2 101	299	87.54	6 948	6 120	828	88.09
....	.....	.....	.....	.....	.....	.....	.....	19 011	12 886	6 125	67.78
2 160	1 677	483	77.64	4 054	3 154	900	77.81	12 238	10 951	1 287	89.48
....	.....	.....	.....					[illegible]	[illegible]	[illegible]	[illegible]

K. O. & G. of Tex.	.....	.....	.....	.....	.....	.....	.....	.....	19
L. R. & N. Co.	2 160	1 677	483	77.64	4 054	3 154	900	77.81	12
L. R. & N. Co. of Tex.	.....	.....	.....	.....	.....	.....	.....	.....	6
La. Western	11 067	5 958	5 109	53.84	10 107	6 444	3 663	63.76	20
M. K. T.	7 177	5 095	2 082	70.99	9 530	6 302	3 228	66.13	19
M. K. T. of Tex.	6 005	4 867	1 138	81.05	7 513	6 172	1 341	82.15	16
Mo. Pac.	6 061	4 538	1 523	74.88	6 723	5 133	1 590	76.35	16
f–M. L. & T.	14 943	9 102	5 841	60.91	13 709	9 088	4 621	66.29	21
N. O. T. & M.	.....	.....	.....	.....	2 990	2 514	476	84.10	17
P. H. & S. F.	.....	.....	.....	.....	.....	.....	.....	.....	12
St. L. B. & M.	899	487	412	54.19	3 443	2 671	772	77.59	14
St. L. S. F.	6 040	3 850	2 190	63.74	8 279	5 688	2 591	68.71	18
St. L. S. F. & Tex.	4 775	4 111	664	86.10	6 511	6 847	Def 336	105.16	14
St. L. S. W.	7 504	4 872	2 632	64.92	9 462	5 564	3 898	58.80	18
St. L. S. W. of Tex.	4 811	3 911	900	81.31	5 246	5 493	Def 247	104.70	10
S. A. & A. P.	3 638	2 486	1 152	68.33	5 394	3 926	1 468	72.79	10
T. & Ft. S.	.....	.....	.....	.....	.....	.....	.....	.....	35
Texas & N. O.	7 604	6 485	1 119	85.27	8 242	6 062	2 180	73.56	18
Texas & Pacific	6 738	4 344	2 394	64.47	8 369	6 059	2 310	72.40	17
V. S. & P.	8 272	6 016	2 256	72.74	8 271	6 018	2 253	72.76	22

a–Figures for C. & N. W.–C. B. & Q.–C. St. P. M. & O. for 1890–1895–1900 and 1905 represent operations of lines east of Missouri R
b–Figures for M. St. P. & S. S. M. for 1890–1895–1900 and 1905 represent operations of Wisconsin Central Ry.
c–Figures for Wabash for 1890–1895–1900 and 1905 represent operations of lines west of Danville, Ill.
d–Figures for A. T. & S. F. and C. R. I. & P. for 1890–1895–1900 and 1905 represent operations of lines west of Missouri River.
e–Figures for G. H. & S. A. for 1890 represent operations of Southern Pacific-Atlantic System.
f–Figures for M. L. & T. for 1895 and 1900 represent operations of Southern Pacific Lines in Louisiana.

.....	.....	.....	.....	.....	.....	.....	.....	19 011	12 886	6 125	67.78
2 160	1 677	483	77.64	4 054	3 154	900	77.81	12 238	10 951	1 287	89.48
.....	.....	.....	.....	.....	.....	.....	.....	6 529	5 476	1 053	83.88
11 067	5 958	5 109	53.84	10 107	6 444	3 663	63.76	20 204	14 425	5 779	71.40
7 177	5 095	2 082	70.99	9 530	6 302	3 228	66.13	19 119	12 948	6 171	67.72
6 005	4 867	1 138	81.05	7 513	6 172	1 341	82.15	16 427	11 787	4 640	71.76
6 061	4 538	1 523	74.88	6 723	5 133	1 590	76.35	16 800	13 379	3 421	79.63
14 943	9 102	5 841	60.91	13 709	9 088	4 621	66.29	21 097	18 958	2 139	89.86
.....	.....	.....	.....	2 990	2 514	476	84.10	17 716	12 352	5 364	69.72
.....	.....	.....	.....	.....	.....	.....	.....	12 943	8 562	4 391	66.15
899	487	412	54.19	3 443	2 671	772	77.59	14 251	8 282	5 969	58.11
6 040	3 850	2 190	63.74	8 279	5 688	2 591	68.71	18 062	12 723	5 339	70.44
4 775	4 111	664	86.10	6 511	6 847	Def 336	105.16	14 743	10 860	3 883	73.66
7 504	4 872	2 632	64.92	9 462	5 564	3 898	58.80	18 813	12 696	6 117	67.49
4 811	3 911	900	81.31	5 246	5 493	Def 247	104.70	10 011	9 558	453	95.47
3 638	2 486	1 152	68.33	5 394	3 926	1 468	72.79	10 042	8 487	1 555	85.42
.....	.....	.....	.....	.....	.....	.....	.....	35 672	19 240	16 432	53.94
7 604	6 485	1 119	85.27	8 242	6 062	2 180	73.56	18 275	15 946	2 329	87.25
6 738	4 344	2 394	64.47	8 369	6 059	2 310	72.40	17 301	12 927	4 374	74.72
8 272	6 016	2 256	72.74	8 271	6 018	2 253	72.76	22 600	17 656	4 944	78.12

& Q.–C. St. P. M. & O. for 1890–1895–1900 and 1905 represent operations of lines east of Missouri River.
M. for 1890–1895–1900 and 1905 represent operations of Wisconsin Central Ry.
–1895–1900 and 1905 represent operations of lines west of Danville, Ill.
C. R. I. & P. for 1890–1895–1900 and 1905 represent operations of lines west of Missouri River.
1890 represent operations of Southern Pacific-Atlantic System.
5 and 1900 represent operations of Southern Pacific Lines in Louisiana.

Traffic Density on Lines of Certain Respondent Carriers, 1890, 1895, 1908, 1910, 1924

	Year ended June 30, 1890.	Year ended June 30, 1895.	Year ended June 30, 1908.	Year ended June 30, 1910.	Year ended December 31, 1924.
Chicago & Alton	701 388	528 993	1 264 672	1 365 832	2 077 956
C. & E. I.	826 726	936 668	1 913 360	2 064 653	2 340 413
a-C. & N. W.	477 983	341 461	633 881	729 094	979 615
a-C. B. & Q.	698 833	574 650	735 708	824 016	1 306 203
C. G. W.	491 248	.....	1 031 595	793 716	1 299 432
C. M. & St. P.	324 097	284 423	664 133	709 161	1 001 624
a-C. St. P. M. & O.	352 966	279 853	538 272	615 903	936 842
Illinois Central	467 216	536 239	1 366 044	1 445 827	2 693 740
M. & St. L.	.....	.....	239 194	315 008	732 856
b-M. St. P. & S. S. M.	423 728	.....	774 662	684 031	773 923
Q. O. & K. C.	.....	.....	210 240	262 967	158 798
c-Wabash	542 547	421 876	1 186 364	1 322 598	1 976 350
Y. & M. V.	.....	277 172	722 859	705 270	884 567
d-A. T. & S. F.	310 238	275 729	765 417	757 977	1 102 973
B. S. L. & W.	.....	.....	15 494	315 679	1 513 461
C. R. I. & G.	.....	.....	363 300	356 496	756 232
d-C. R. I. & P.	154 762	130 237	.....	581 272	985 935
Ft. W. & D. C.	.....	.....	610 415	844 994	1 236 030
e-G. H. & S. A.	300 204	507 821	800 651	704 454	1 261 792
G. C. & S. F.	190 734	274 118	621 744	609 071	1 208 271
H. & S.	.....	.....	129 452	264 237	718 590
H. & T. C.	.....	418 068	551 241	469 808	797 777
H. E. & W. T.	.....	.....	338 535	359 056	744 843
I. G. N.	248 073	215 741	388 710	464 069	622 651
K. C. M. & O.	.....	.....	70 963	.....	771 139
K. C. M. & O. of Tex.	.....	.....	.....	.....	292 642
K. C. S.	.....	.....	1 131 710	1 204 937	1 811 133
K. O. & G.	.....	.....	60 371	77 697	446 266
K. O. & G. of Tex.	.....	.....	.....	.....	418 623
L. R. & N. Co.	.....	.....	154 083	242 132	802 505
L. R. & N. Co. of Tex.	.....	.....	.....	.....	401 148
Western					

L. R. & N. Co.	.....	.....	154 083	242 132	802 505
L. R. & N. Co. of Tex.	.....	.....	.....	.....	401 148
La. Western	.....	.....	776 689	743 056	1 225 821
M. K. T.	309 359	469 284	496 138	528 021	1 076 788
M. K. T. of Tex.	317 321	324 888	.....	.....	810 900
Mo. Pac.	284 936	205 996	499 527	552 683	1 192 000
f–M. L. & T.	.....	796 339	730 057	770 180	1 072 680
N. O. T. & M.	.....	.....	.....	165 447	1 289 512
P. H. & S. F.	.....	.....	.....	.....	897 996
St. L. B. & M.	.....	.....	104 685	152 089	664 450
St. L. S. F.	282 458	255 206	500 964	576 093	961 048
St. L. & S. F. & Tex.	.....	.....	515 508	513 347	626 735
St. L. S. W.	.....	380 729	680 461	760 547	1 101 158
St. L. S. W. of Tex.	.....	.....	264 838	297 999	440 439
S. A. & A. P.	.....	.....	201 748	248 961	380 447
T. & Ft. S.	.....	.....	.....	.....	1 754 088
Texas & N. O.	.....	.....	626 055	572 583	980 579
Texas Pacific	270 659	298 295	525 813	565 954	827 925
V. S. & P.	.....	.....	392 412	453 336	978 795

a–Figures for C. & N. W.–C. B. & Q.–C. St. P. M. & O. for 1890 and 1895 represent operation of lines east of Missouri River.
b–Figures for M. St. P. & S. S. M. for 1890 and 1908 represent operations of Wisconsin Central Ry.
c–Figures for Wabash Ry. for 1890 and 1895 represent operations of lines west of Danville, Ill.
d–Figures for A. T. & S. F. and C. R. I. & P. for 1890 and 1895 represent operations of lines west of Missouri River.
e–Figures for G. H. & S. A. for 1890 represent operations of Southern Pacific—Atlantic System.
f–Figures for M. L. & T. for 1895 represent operations of Southern Pacific Lines in Louisiana.

[fol. 214] Exhibit A-38 consisting of three pages is a comparison of the railway operating revenue per mile of road, the operating expenses per mile of road, the net revenue per mile and the operating ratio of various carriers at intervals of five years from 1890 to 1924, omitting, however, the years intervening between 1910 and 1924

The figures, except for 1924, were taken from the statistics of carriers in the United States published annually by the Interstate Commerce Commission. For 1924 the figures were obtained from the reports of the carriers on file with the Commission.

The third page of the exhibit shows for certain years the density of traffic on the lines of the roads shown.

This exhibit includes the lines of all the railroads wherever located, the entire line, except where otherwise explained by foot note.

I would like to point out, as shown by the foot note on page 2, that from 1890 to 1905, inclusive, the figures for the Chicago & North Western, Chicago, Burlington & Quincy and the Chicago, St. Paul, Minneapolis & Omaha Railways cover only the operations of their lines east of the Missouri river and they were so shown in the reports of the Commission. Similarly for the Santa Fe and the Rock Island in the same years the figures are only for the lines west of the Missouri river and for the Wabash are for the lines west of Danville, Illinois.

Subsequent to 1905, the figures are for the carriers as a whole and not divided as between different sections of the same railroad.

For the year ended June 30, 1890, of the roads operating east of the Missouri and Mississippi river crossings, five [fol. 215] had a net railway operating revenue of over $2,400 per mile of road and eight show an operating ratio below 65 per cent. Five earned net railway operating revenues of over $1,500 and less than $2,000 per mile, and only one earned less than $1,000 per mile.

Of the thirteen roads south and west of these crossings six had net railway operating revenue of less than $100 per mile of road and operating ratios ranging from 68 to 81 per cent; four had a net railway operating revenue of over $1,000, but less than $1,500, per mile of road, and the operating ratios of these roads, with the exception of the Fort

Worth & Denver City, which was about 61 per cent, ranged from 70 to 77 per cent. The remaining three had a net railway operating revenue ranging from $1,779 to $2,193 per mile of road and operating ratios of 59.34 per cent in the case of the A. T. & S. F. Railway, 66.18 per cent for the Southern Pacific-Atlantic System and 54.42 per cent for the St. L.-S. W. Railroad.

In the year ended June 30, 1895, of the thirteen roads east of the crossings three had a net railway operating revenue in excess of $2,500 per mile of road and operating ratios of 55 to 62 per cent; three had a net revenue of over $2,000 per mile of road and operating ratios of 62 to 65 per cent. Of the remaining seven only two earned less than $1,000 per mile of road and operating ratios, with one exception, ranged from 59 to 74 per cent.

Of the roads south and west of the crossings four had net railway operating revenue in excess of $2,500 per mile of road and operating ratios of 59 to 64 per cent. Of the remainder, eight had net railway operating revenue ranging from $1,079 to $1,770 per mile of road and operating ratios of 60 to 71 per cent. The remaining ten reported net railway operating revenue of less than $1,000 per mile of road and their operating ratios ranged from 69 to 89 per cent.

[fol. 216] In the year ended June 30, 1900, the net railway operating revenue of the twelve roads east of the crossings was in excess of $3,000 per mile of road for four; between $2,000 and $3,000 for five, and between $1,500 and $2,000 for the remaining three. Nine of the roads had an operating ratio below 65 and the remaining three operating ratios ranging from 70 to 78 per cent.

Of the roads south and west of the Missouri and Mississippi river crossings,—excluding the Southern Pacific Lines in Louisiana, with a net operating railway revenue of $4,204 per mile of road—five show a net revenue ranging from $2,152 to $2,588 per mile of road and operating ratios ranging from 58 to 71 per cent. The remaining sixteen had net railway operating revenues ranging from $648 to $1,745 per mile of road and operating ratios ranging from 62 to 85 per cent.

For the year ended June 30, 1905, seven of the thirteen roads east of the crossings earned a net railway operating

revenue in excess of $2,500 per mile of road, with operating ratios ranging from 61 to 72 per cent. Of the remaining six, five had net railway operating revenues ranging from $1,369 to $2,072 per mile of road and operating ratios of 59 to 86 per cent.

Of the roads south and west of the crossings—excluding the Louisiana Western and M. L. & T.—eight had a net railway operating revenue ranging from $2,067 to $2,632 per mile of road and operating ratios of 63 to 74 per cent; twelve had a net railway operating revenue between $1,000 and $2,000 per mile of road and operating ratios ranging from 67 to 85 per cent. The remaining seven had net railway operating revenues of less than $100 per mile of road and two of them incurred deficits. The operating ratios of these seven roads, with the exception of the St. L. B. & M., which was 54.19 per cent, ranged from 74 to 127 per cent. [fol. 217] In 1910 nine of the thirteen roads east and north of the crossings had a net railway operating revenue exceeding $2,500 per mile of road and operating ratios of 57 and 75 per cent. Of the remaining four, one incurred a deficit and the other three earned net railway operating revenues of $1,487 to $1,787 per mile of road and reported operating ratios of 69 to 77 per cent.

Of the roads south and west of the crossings, four had net railway operating revenues exceeding $4,000 per mile of road and operating ratios ranging from 59 to 66 per cent; four had a net railway operating revenue of over $3,000, but less than $4,000 per mile of road and operating ratios ranging from 54 to 66 per cent; seven had a net railway operating revenue ranging from $2,180 to $2,591 per mile of road and operating ratios ranging from 66 to 74 per cent. Of the remaining fifteen roads south and west of the Missouri and Mississippi river crossings, seven earned net railway operating revenues per mile of road ranging from $1,308 to $1,892, with operating ratios ranging from 69 to 82 per cent; six had net railway operating revenues per mile of road of $158 to $968 and operating ratios of 75 to 93 per cent; two incurred deficits.

In the year ended December 31, 1924, of the thirteen roads east of the Missouri and Mississippi river crossings, three had net railway operating revenues of $6,218 to $6,983

per mile of road and operating ratios of about 77 per cent; two earned net railway operating revenue of $4,309 and $4,541 per mile of road, with operating ratios of 73 per cent and 74 per cent, respectively; three earned more than $3,000, but less than $4,000 per mile of road, with operating ratios of 79 to 86 per cent; three earned between $2,500 and $3,000 with operating ratios of 77 to 82 per cent. Of the remaining two one had a net railway operating revenue of $334 and the other incurred a deficit.

[fol. 218] In the territory south and west of the river crossings three of the roads had net railway operating revenues in excess of $8,000 per mile of road and operating ratios of 54 to 62 per cent. Three earned a net railway operating revenue of approximately $6,100 per mile of road, with an operating ratio of 68 per cent. Six had net railway operating revenue ranging from $5,364 to $5,969 per mile of road and operating ratios ranging from 58 to 75 per cent. Nine had a net railway operating revenue in excess of $4,000, but less than $5,000 per mile and operating ratios ranging from 68 to 79 per cent. Four earned net railway operating revenue of $3,403 to $3,883 per mile of road, with operating ratios of 74 to 80 per cent. Six had net railway operating revenue ranging from $1,053 to $2,329 per mile of road and operating ratios of 84 to 90 per cent. The remaining four earned net railway operating revenue of less than $1,000 per mile of road, with operating ratios of 83 to 95 per cent. The latter four were the K. C. M. & O., K. C. M. & O. of Texas, K. O. & G. and St. L. S. W. of Texas.

The volume of traffic carried, as measured by tons one mile per mile of road, in the year ended June 30, 1890, on the roads east of the river crossings, ranged from about 325,000 to over 825,000. In 1924, on the same roads, three had traffic densities in excess of 2,000,000; four had traffic densities in excess of 2,000,000; four had traffic densities in excess of 1,000,000, and the remaining six traffic densities of 732,000 to 937,000.

On the roads south and west of the river crossings, in 1890 the traffic densities ranged from about 190,000 to 400,000 ton mile per mile of road. In 1924 thirteen of the roads in this territory had traffic densities in excess of 1,000,000; four, traffic densities in excess of 900,000, but less than [fol. 219] 1,000,000; four, traffic densities between 800,000

and 900,000; five, traffic densities between 700,000 and 800,000; three traffic densities between 600,000 and 700,000, and six, traffic densities below 500,000 ton miles per mile of road. These six were the K. C. M. & O. of Texas, K. O. & G. of Texas, Louisiana Railway & Navigation Company of Texas, St. L. S. W. Railway of Texas, and San Antonio & Aransas Pass Railway.

This traffic density is shown in ton miles per mile of road per annum.

Exhibit No. A-39 was then offered and received in evidence (4269), which said exhibit, omitting title page, is in words and figures as follows:

(Here follows Exhibit No. A-39, side folios 220, 221, 222, 223, and 224)

[fol. 220]

EXHIBIT No. A-39

Witness: Parsons

Page 2

1924

I. C. C. Docket 15234

Average Miles of Road Operated, Tons Carried One Mile, Freight Revenue, Ton Miles per Mile of Road, Revenue per Ton Mile, and Fre per Mile of Road for Class I Railroads in Western Trunk Line and Southwestern Groups, Year Ended December 31, 1924

	Average Miles of road operated	Tons carried one mile	Freight revenue	Ton miles per mile of road	Revenue per ton mile, mills
Western Trunk Line Group:					
Illinois	8 714.58	22 142 730 040	$209 793 074	2 540 883	.947
Iowa	10 088.51	9 813 304 431	105 112 772	972 721	1.071
Michigan (Upper Peninsula)	1 666.47	1 173 016 727	13 569 359	703 893	1.157
Minnesota (South of Twin Cities)	3 523.89	3 104 593 796	36 590 249	881 013	1.172
Missouri (On and North of C. R. I. & P. Ry.)	3 475.52	5 371 546 537	57 211 154	1 544 962	1.065
Wisconsin	7 159.90	7 931 591 171	88 789 323	1 107 780	1.119
Total for W. T. L. Group	34 628.87	49 536 782 702	511 065 931	1 430 505	1.032
Total for W. T. L. Group excluding Illinois	25 914.29	27 394 052 662	301 272 857	1 057 102	1.100
Southwestern Group:					
Arkansas	4 294.06	4 479 790 911	55 391 759	1 043 253	1.236
Kansas	9 311.65	8 793 064 406	111 271 580	944 308	1.265
Louisiana (West of Mississippi River)	3 681.02	3 360 983 798	41 535 873	913 058	1.236
Missouri (South of C. R. I. & P. Ry.)	4 269.68	4 886 467 023	62 014 312	1 144 458	1.269
Oklahoma	6 233.17	5 466 771 016	71 647 599	877 045	1.311
Texas	14 538.32	11 806 290 758	165 418 139	812 081	1.401
Total for Southwestern Group	42 327.90	38 793 367 912	507 279 262	916 496	1.308

Ratio of Revenue per ton per mile in Southwestern Group —

To Revenue per ton per mile in W. T. L. Group —.....126.74%

To Revenue per ton per mile in W. T. L. Group, excluding Illinois.....118.91

EXHIBIT No. A-39

Witness: Parsons

Page 2

1924

I. C. C. Docket 15234

of Road Operated, Tons Carried One Mile, Freight Revenue, Ton Miles per Mile of Road, Revenue per Ton Mile, and Freight Revenue Mile of Road for Class I Railroads in Western Trunk Line and Southwestern Groups, Year Ended December 31, 1924

	Average Miles of road operated	Tons carried one mile	Freight revenue	Ton miles per mile of road	Revenue per ton mile, mills	Freight revenue per mile of road
k Line Group:						
.....	8 714.58	22 142 730 040	$209 793 074	2 540 883	.947	$24 074
.....	10 088.51	9 813 304 431	105 112 772	972 721	1.071	10 419
(Upper Peninsula).....	1 666.47	1 173 016 727	13 569 359	703 893	1.157	8 143
a (South of Twin Cities).....	3 523.89	3 104 593 796	36 590 249	881 013	1.172	10 383
(On and North of C. R. I. & P. Ry.).	3 475.52	5 371 546 537	57 211 154	1 544 962	1.065	16 461
.....	7 159.90	7 931 591 171	88 789 323	1 107 780	1.119	12 401
tal for W. T. L. Group.....	34 628.87	49 536 782 702	511 065 931	1 430 505	1.032	14 758
tal for W. T. L. Group excluding Illinois.....	25 914.29	27 394 052 662	301 272 857	1 057 102	1.100	11 626
Group:						
.....	4 294.06	4 479 790 911	55 391 759	1 043 253	1.236	12 900
.....	9 311.65	8 793 064 406	111 271 580	944 308	1.265	11 950
(West of Mississippi River).....	3 681.02	3 360 983 798	41 535 873	913 058	1.236	11 284
(South of C. R. I. & P. Ry.).....	4 269.68	4 886 467 023	62 014 312	1 144 458	1.269	14 524
.....	6 233.17	5 466 771 016	71 647 599	877 045	1.311	11 495
.....	14 538.32	11 806 290 758	165 418 139	812 081	1.401	11 378
tal for Southwestern Group.....	42 327.90	38 793 367 912	507 279 262	916 496	1.308	11 985

nue per ton per mile in Southwestern Group —
ue per ton per mile in W. T. L. Group —.....126.74%
ue per ton per mile in W. T. L. Group, excluding Illinois.....118.91

1923

I. C. C. Docket 15234

Average Miles of Road Operated, Tons Carried One Mile, Freight Revenue, Ton Miles per Mile of Road, Revenue per Ton Mile, and Fr per Mile of Road for Class I Railroads in Western Trunk Line and Southwestern Groups, Year Ended December 31, 1923

States	Average Miles of road operated	Tons carried one mile	Freight revenue	Ton miles per mile of road	Revenue per ton mile, mills
Western Trunk Line Group:					
Illinois	8 715.51	24 275 927 106	$228 306 198	2 785 371	9.40
Iowa	10 083.91	10 267 046 394	112 658 791	1 018 161	10.97
Michigan (Upper Peninsula)	1 542.09	1 279 195 541	14 318 122	829 521	11.19
Minnesota (South of Twin Cities)	3 519.62	3 143 456 714	36 608 269	893 124	11.65
Missouri (On and North of C. R. I. & P. Ry.)	3 475.00	5 350 838 768	60 107 973	1 539 810	11.23
Wisconsin	7 162.56	8 853 214 288	96 783 616	1 236 041	10.93
Total for W. T. L. Group	34 498.69	53 169 678 811	548 782 969	1 541 209	10.32
Total for W. T. L. Group excluding Illinois	25 783.18	28 893 751 705	320 476 771	1 120 643	11.09
Southwestern Group:					
Arkansas	4 295.77	4 494 510 599	56 297 715	1 046 264	12.53
Kansas	9 239.86	7 934 945 641	104 680 761	858 773	13.19
Louisiana (West of Mississippi River)	3 557.79	2 906 436 109	39 223 999	816 922	13.50
Missouri (South of C. R. I. & P. Ry.)	4 300.91	4 695 320 766	60 895 899	1 091 704	12.97
Oklahoma	6 272.93	4 938 174 316	65 657 312	787 220	13.30
Texas	14 609.94	10 125 271 725	144 979 297	693 040	14.32
Total for Southwestern Group	42 277.20	35 094 659 156	471 734 983	830 345	13.44

Ratio of Revenue per ton per mile in Southwestern Group —.

To Revenue per ton per mile in W. T. L. Group 130.23%

To Revenue per ton per mile in W. T. L. Group, excluding Illinois 121.19

1923

I. C. C. Docket 15234

s of Road Operated, Tons Carried One Mile, Freight Revenue, Ton Miles per Mile of Road, Revenue per Ton Mile, and Freight Revenue Mile of Road for Class I Railroads in Western Trunk Line and Southwestern Groups, Year Ended December 31, 1923

States	Average Miles of road operated	Tons carried one mile	Freight revenue	Ton miles per mile of road	Revenue per ton mile, mills	Freight revenue per mile of road
nk Line Group:						
.....	8 715.51	24 275 927 106	$228 306 198	2 785 371	9.40	$26 195
.....	10 083.91	10 267 046 394	112 658 791	1 018 161	10.97	11 172
(Upper Peninsula).....	1 542.09	1 279 195 541	14 318 122	829 521	11.19	9 285
a (South of Twin Cities).....	3 519.62	3 143 456 714	36 608 269	893 124	11.65	10 401
(On and North of C. R. I. & P. Ry.)	3 475.00	5 350 838 768	60 107 973	1 539 810	11.23	17 297
n.....	7 162.56	8 853 214 288	96 783 616	1 236 041	10.93	13 512
otal for W. T. L. Group.....	34 498.69	53 169 678 811	548 782 969	1 541 209	10.32	15 907
otal for W. T. L. Group excluding Illinois.....	25 783.18	28 893 751 705	320 476 771	1 120 643	11.09	12 430
Group:						
.....	4 295.77	4 494 510 599	56 297 715	1 046 264	12.53	13 105
.....	9 239.86	7 934 945 641	104 680 761	858 773	13.19	11 329
(West of Mississippi River).....	3 557.79	2 906 436 109	39 223 999	816 922	13.50	11 025
(South of C. R. I. & P. Ry.).....	4 300.91	4 695 320 766	60 895 899	1 091 704	12.97	14 159
a.....	6 272.93	4 938 174 316	65 657 312	787 220	13.30	10 467
.....	14 609.94	10 125 271 725	144 979 297	693 040	14.32	9 923
tal for Southwestern Group.....	42 277.20	35 094 659 156	471 734 983	830 345	13.44	11 158

nue per ton per mile in Southwestern Group —.
ue per ton per mile in W. T. L. Group.....130.23%
ue per ton per mile in W. T. L. Group, excluding Illinois.....121.19

1922

I. C. C. Docket 15234

Average Miles of Road Operated, Tons Carried One Mile, Freight Revenue, Ton Miles per Mile of Road, Revenue per Ton Mile, and Fr per Mile of Road for Class I Railroads in Western Trunk Line and Southwestern Groups, Year Ended December 31, 1922

States	Average Miles of road operated	Tons carried one mile	Freight revenue	Ton miles per mile of road	Revenue per ton mile, mills
Western Trunk Line Group:					
Illinois	8 726.62	21 186 976 361	$204 312 992	2 427 856	9.64
Iowa	10 087.97	9 264 552 986	103 763 434	918 376	11.20
Michigan (Upper Peninsula)	1 547.20	1 014 603 024	11 965 827	655 767	11.79
Minnesota (South of Twin Cities)	3 519.25	2 812 563 468	33 882 226	799 194	12.05
Missouri (On and North of C. R. I. & P. Ry.)	3 477.02	5 004 160 594	58 347 550	1 439 210	11.66
Wisconsin	7 127.43	7 457 308 084	87 029 735	1 046 283	11.67
Total for W. T. L. Group	34 485.49	46 740 164 517	499 301 764	1 355 357	10.68
Total for W. T. L. Group excluding Illinois	25 758.87	25 553 188 156	294 988 772	992 011	11.54
Southwestern Group:					
Arkansas	3 993.57	3 494 525 623	45 562 880	875 038	13.04
Kansas	9 163.88	7 342 512 587	103 306 051	801 245	14.07
Louisiana (West of Mississippi River)	3 678.04	2 564 735 075	35 675 541	697 310	13.91
Missouri (South of C. R. I. & P. Ry.)	4 260.88	3 852 944 237	55 045 351	904 260	14.29
Oklahoma	6 338.52	4 411 226 387	63 769 447	695 939	14.46
Texas	14 473.12	9 004 934 199	136 068 162	622 183	15.11
Total for Southwestern Group	41 908.01	30 670 878 108	439 427 432	731 862	14.33

Ratio of Revenue per ton per mile in Southwestern Group:
To Revenue per ton per mile in W. T. L. Group 134.18%
To Revenue per ton per mile in W. T. L. Group, excluding Illinois 124.18

1922

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les of Road Operated, Tons Carried One Mile, Freight Revenue, Ton Miles per Mile of Road, Revenue per Ton Mile, and Freight Revenue r Mile of Road for Class I Railroads in Western Trunk Line and Southwestern Groups, Year Ended December 31, 1922

States	Average Miles of road operated	Tons carried one mile	Freight revenue	Ton miles per mile of road	Revenue per ton mile, mills	Freight revenue per mile of road
unk Line Group:						
.....	8 726.62	21 186 976 361	$204 312 992	2 427 856	9.64	$23 413
.....	10 087.97	9 264 552 986	103 763 434	918 376	11.20	10 286
an (Upper Peninsula).....	1 547.20	1 014 603 024	11 965 827	655 767	11.79	7 734
sota (South of Twin Cities).....	3 519.25	2 812 563 468	33 882 226	799 194	12.05	9 628
ri (On and North of C. R. I. & P. Ry.)	3 477.02	5 004 160 594	58 347 550	1 439 210	11.66	16 781
sin.....	7 127.43	7 457 308 084	87 029 735	1 046 283	11.67	12 211
Total for W. T. L. Group.....	34 485.49	46 740 164 517	499 301 764	1 355 357	10.68	14 479
Total for W. T. L. Group excluding Illinois.....	25 758.87	25 553 188 156	294 988 772	992 011	11.54	11 452
rn Group:						
as.....	3 993.57	3 494 525 623	45 562 880	875 038	13.04	11 409
.....	9 163.88	7 342 512 587	103 306 051	801 245	14.07	11 273
na (West of Mississippi River).....	3 678.04	2 564 735 075	35 675 541	697 310	13.91	9 700
ri (South of C. R. I. & P. Ry.).....	4 260.88	3 852 944 237	55 045 351	904 260	14.29	12 919
ma.....	6 338.52	4 411 226 387	63 769 447	695 939	14.46	10 061
.....	14 473.12	9 004 934 199	136 068 162	622 183	15.11	9 401
Total for Southwestern Group.....	41 908.01	30 670 878 108	439 427 432	731 862	14.33	10 486

venue per ton per mile in Southwestern Group:
enue per ton per mile in W. T. L. Group.....134.18%
enue per ton per mile in W. T. L. Group, excluding Illinois.....124.18

[fol. 223]

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Average Miles of Road Operated, Ton Miles per Mile of Road, Revenue per Ton Mile, and Freight Revenue per Mile of Road, 1922,

Western Trunk Line Group

Class I Railroads in Illinois, Iowa, Michigan (Upper Peninsula), Minnesota (South of Twin Cities), Missouri (on and North of C. R and Wisconsin

Year ended	Average miles of road operated	Ton miles per mile of road	Revenue per ton mile, mills	Freight mile
December 31, 1922	34 485.49	1 355 357	10.68	$1
1923	34 498.69	1 541 209	10.32	1
1924	34 628.87	1 430 505	10.32	1

Western Trunk Line Group, Excluding Illinois

Class I Railroads in Iowa, Michigan (Upper Peninsula), Minnesota (South of Twin Cities), Missouri (on and North of C. R. I. & P. Ry.), and Wisconsin

December 31, 1922	25 758.87	992 011	11.54	1
1923	25 783.18	1 120 643	11.09	1
1924	25 914.29	1 057 102	11.00	1

Southwestern Group

Class I Railroads in Arkansas, Kansas, Louisiana (West of Mississippi River), Missouri (South of C. R. I. & P. Ry.), Oklahoma and

December 31, 1922	41 908.01	731 862	14.33	1
1923	42 277.20	830 345	13.44	1
1924	42 327.90	916 496	13.08	1

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es of Road Operated, Ton Miles per Mile of Road, Revenue per Ton Mile, and Freight Revenue per Mile of Road, 1922, 1923, 1924

Western Trunk Line Group

oads in Illinois, Iowa, Michigan (Upper Peninsula), Minnesota (South of Twin Cities), Missouri (on and North of C. R. I. & P. Ry.) and Wisconsin

Year ended	Average miles of road operated	Ton miles per mile of road	Revenue per ton mile, mills	Freight revenue per mile of road
, 1922	34 485.49	1 355 357	10.68	$14 479
1923	34 498.69	1 541 209	10.32	15 907
1924	34 628.87	1 430 505	10.32	14 758

Western Trunk Line Group, Excluding Illinois

Class I Railroads in Iowa, Michigan (Upper Peninsula), Minnesota (South of Twin Cities), Missouri (on and North of C. R. I. & P. Ry.), and Wisconsin

, 1922	25 758.87	992 011	11.54	11 452
1923	25 783.18	1 120 643	11.09	12 430
1924	25 914.29	1 057 102	11.00	11 626

Southwestern Group

oads in Arkansas, Kansas, Louisiana (West of Mississippi River), Missouri (South of C. R. I. & P. Ry.), Oklahoma and Texas

, 1922	41 908.01	731 862	14.33	10 486
1923	42 277.20	830 345	13.44	11 158
1924	42 327.90	916 496	13.08	11 985

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List of Class I Railroads Comprising Western Trunk Line and Southwestern Groups

Western Trunk Line Group

Illinois:
Atchison, Topeka & Santa Fe.
Chicago & Alton.
Chicago & Northwestern.
Chicago, Burlington & Quincy.
Chicago Great Western.
Chicago, Milwaukee & St. Paul.
Chicago, Peoria & St. Louis.
Chicago, Rock Island & Pacific.
Illinois Central.
Minneapolis & St. Louis.
Minneapolis, St. Paul & S. S. Marie.
Missouri Pacific.
Quincy, Omaha & Kansas City.
St. Louis Southwestern.
Toledo, Peoria & Western.
Wabash.

Iowa:
Atchison, Topeka & Santa Fe.
Chicago & Northwestern.
Chicago Great Western.
Chicago, Burlington & Quincy.
Chicago, Milwaukee & St. Paul.
Chicago, Rock Island & Pacific.

Arkansas:
Chicago, Rock Island & Pacific.
Kansas City Southern.
Louisiana & Arkansas.
Midland Valley.
Missouri Pacific.
* Missouri & North Arkansas.
St. Louis-San Francisco.
Texas & Pacific.
St. Louis-Southwestern.

Kansas:
Atchison, Topeka & Santa Fe.
Chicago, Burlington & Quincy.
Chicago Great Western.
Chicago, Rock Island & Pacific Lines.
Kansas City, Mexico & Orient.

Iowa (Cont'd.):
Chicago, St. Paul, Minneapolis & Omaha.
Great Northern.
Illinois Central.
Minneapolis & St. Louis.
Union Pacific System.
Wabash.

Michigan (Upper Peninsula):
Chicago & Northwestern.
Chicago, Milwaukee & St. Paul.
Duluth, South Shore & Atlantic.
Lake Superior & Ishpeming.
Minneapolis, St. Paul & S. S. Marie.

Minnesota (South of Twin Cities):
Chicago & Northwestern.
Chicago, Burlington & Quincy.
Chicago Great Western.
Chicago, Milwaukee & St. Paul.
Chicago, Rock Island & Pacific.
Chicago, St. Paul, Minneapolis & Omaha.
Illinois Central.
Minneapolis & St. Louis.

Missouri (On and North of C. R. I. & P. Ry.
Atchison, Topeka & Santa Fe.
Chicago & Alton.
Chicago, Burlington & Quincy.
Chicago Great Western.
Chicago, Milwaukee & St. Paul.
Chicago, Rock Island & Pacific.
Quincy, Omaha & Kansas City.
Wabash.

Wisconsin:
Chicago, & Northwestern.
Chicago, Burlington & Quincy.
Chicago, Milwaukee & St. Paul.
Chicago, St. Paul, Minneapolis & Omaha.
Duluth, South Shore & Atlantic.
Great Northern.
Green Bay & Western.
Illinois Central.
Minneapolis, St. Paul & S. S. Marie.

Southwestern Group

Louisiana (West of Mississippi River):
Chicago, Rock Island & Pacific Lines.
Atchison, Topeka & Santa Fe.
Kansas City Southern.
Louisiana & Arkansas.
Louisiana Ry. & Navigation Company.
* Louisiana Ry. & Navigation Co. of Texas.
Southern Pacific-Louisiana Lines.
** Missouri, Kansas, Texas.
Missouri Pacific.
Gulf Coast Lines.
St. Louis-Southwestern.
Texas & Pacific.
Vicksburg, Shreveport & Pacific.

Oklahoma (Cont'd.):
Midland Valley.
Missouri, Kansas, Texas.
Missouri Pacific.
St. Louis-San Francisco.
* Wichita Valley.

Texas:
Atchison, Topeka & Santa Fe.
Gulf, Colorado & Santa Fe.
Panhandle & Santa Fe.
Gulf Coast Lines.
Chicago, Rock Island & Pacific.
El Paso & Southwestern.
Ft. Worth & Denver City.

Kansas:
Atchison, Topeka & Santa Fe.
Chicago, Burlington & Quincy.
Chicago Great Western.
Chicago, Rock Island & Pacific Lines.
Kansas City, Mexico & Orient.
Kansas, Oklahoma & Gulf.
Kansas City Southern.
Midland Valley.
Missouri, Kansas, Texas.
Missouri Pacific.
St. Joseph & Grand Island.
St. Louis-San Francisco.
Union Pacific System.

Gulf Coast Lines.
St. Louis-Southwestern.
Texas & Pacific.
Vicksburg, Shreveport & Pacific.

Missouri (South of C. R. I. & P. Ry.):
Kansas City Southern.
Missouri, Kansas, Texas.
Missouri & North Arkansas.
Missouri Pacific.
St. Louis-San Francisco.
St. Louis-Southwestern.

Oklahoma:
Atchison, Topeka & Santa Fe.
Chicago, Rock Island & Pacific.
Ft. Smith & Western.
Kansas City, Mexico & Orient.
Kansas City Southern.
Kansas, Oklahoma & Gulf.

Panhandle & Santa Fe.
Gulf Coast Lines.
Chicago, Rock Island & Pacific.
El Paso & Southwestern.
Ft. Worth & Denver City.
Galveston, Harrisburg & San Antonio.
Houston & Texas Central.
Houston East & West Texas.
International & Great Northern.
Kansas City, Mexico & Orient.
Kansas, Oklahoma & Gulf.
Missouri, Kansas, Texas.
St. Louis-San Francisco.
St. Louis-Southwestern of Texas.
San Antonio & Aransas Pass.
Texarkana & Ft. Smith.
Texas & New Orleans.
Texas & Pacific.
Trinity & Brazos Valley.
Wichita Valley.
* Louisiana Ry. & Nav. Co. of Texas.

*—M. & N. A.-L. R. & N. Co. of Texas—Wichita Valley not included in statement for 1922.
**-M. K. T. of Texas in Louisiana not included in statement for 1924.

[fol. 225] For the last three years the statistical bureau of the western lines has each year prepared from reports received by it from the accounting departments of the western carriers statements showing the number of miles of road operated in each state, the tons and ton miles carried, the freight revenue, ton miles per mile of road, revenue per mile of road and similar data.

From these statements I have drawn off the information that is reproduced in Exhibit A-39.

The second page, covering the calendar year 1924, shows for the western trunk line and southwestern groups, as indicated thereon, the miles of road operated, tons carried one mile, freight revenue, ton miles per mile of road, revenue per ton mile in mills and the freight revenue per mile of road.

The totals are shown for the groups.

In connection with the western trunk line group there is a total for the six states named and a total for five states omitting the state of Illinois (4270).

There is a very considerable density of traffic in Illinois that has nothing whatever to do with this case being the density on lines that are not respondent. The railroads omitted are shown on page 6 of the exhibit.

Page 3 shows similar information for the calendar year of 1923 and page 4 for the year of 1922.

Coming now to page 5, I have brought forward certain of the data from the three preceding pages for convenience in comparison.

The first group of figures is for the western trunk line group of states, that is, the class I railroads in Illinois, Iowa, upper peninsula of Michigan, Minnesota south of [fol. 226] the Twin Cities, Missouri on and north of the Chicago, Rock Island & Pacific Railway, and Wisconsin, as listed under the heading of western trunk line group on page 6.

The reason for dividing the state of Missouri on and north of the C. R. I & P. Railway is to overcome the difficulty caused by the fact that the Rock Island has lines both north and south of the Missouri Pacific. I have put the Missouri Pacific Railway in Missouri in the southwestern group and all of the Rock Island lines in Missouri in the western trunk line group.

It will be observed that in the three years there was only a nominal change in the miles of road operated.

There was a considerable increase in the traffic density 1922 to 1923 and then a decline from 1923 to 1924, the figures in 1924 being somewhat higher than for 1922, but less then in 1923.

The revenue per ton per mile, which in 1922 was 10.68 mills, dropped to 10.32 mills in 1923 and was the same figure in 1924.

The freight revenue per mile of road in this group of states showed an increase of not quite $1,500 from 1922 to 1923 and then a decline of about $1,200 from 1923 to 1924.

The middle group of figures on page 5 is for the western trunk line group of states excluding Illinois. The reason for showing this separate group is that a great deal of the southwestern traffic, particularly that to and from points in Iowa, Minnesota and a good deal of that movement into or out of Wisconsin, does not go through the state of Illinois and therefore, we felt it was of interest and would be helpful to consider the conditions in the western trunk line states aside from the state of Illinois.

[fol. 227] It will be observed there that from 1922 to 1924 there was a very slight increase in the miles of road operated, amounting to about 150 miles.

The traffic density in 1922 was 992,011 ton miles per mile of road and increased in 1923 to 1,120,643 and dropped down in 1924 to 1,057,102.

The revenue per ton mile decreased each year, the larger decrease being 1923 under 1922.

The freight revenue per mile of road increased nearly $1,000 in 1923 over 1922, but in 1924 it dropped back to a figure but slightly above that of 1922.

The southwestern group of roads has shown but a very slight increase in mileage but a constant and somewhat substantial increase in traffic density. In 1922 the average traffic density was 731,862 ton miles per mile of road; in 1923 it was 830,345 and in 1924 it was 916,496.

The revenue per ton per mile has declined, starting at 14.33 in 1922, being 13.44 in 1923 and 13.08 in 1924.

The freight revenue per mile of road shows a constant increase in the three years starting at 10,486 in 1922 and reaching 11,985 in 1924 (4269-4272).

In including the Rock Island line in the western trunk line instead of the Missouri Pacific main line, I was not influenced by the fact that part of the Rock Island has a very light traffic density and the Missouri Pacific a very heavy traffic density; I had this in mind: The Rock Island lines leading from Kansas City and the Twin Cities are properly in western trunk line territory and are heavy traffic lines. Now, the old St. Louis, Kansas City & Colorado between St. Louis and Kansas City, I think about 300 miles, I believe is a light traffic density line. Now, obviously, whichever side you put that one railroad would have a slight effect, but I think only a slight effect upon the final [fol. 228] averages. But I concluded that the major traffic of the Rock Island lines as a whole in Missouri was probably in western trunk line territory and having to make a choice one way or the other that was perhaps the most logical choice to make (4273).

I was not influenced by the fact that the Missouri Pacific main line from St. Louis to Kansas City is, for the purpose of this case, included in western trunk line territory and is a very high, heavy traffic density line. Perhaps I had in mind balancing one off against the other a little. They were lines that fell on both sides of the grouping and it was rather hard to place them. No matter which side you placed them on there would be some question asked as to why you did not go on the other side.

Page 6 is a list of the roads in the several states whose figures enter into the data appearing on the preceding pages of the exhibit.

Answering the question as to whether I took weighted averages, the first average is ton miles per mile of road. That is simply the result obtained by dividing the total tons carried one mile by the average miles of railroad operated, both of which figures appear on the page.

The revenue per ton mile in mills is the result obtained by dividing the revenue by the number of tons carried one mile.

The freight revenue per mile of road is obtained by dividing the revenue by the number of miles of road operated.

Exhibit A-40 was then offered and received in evidence (4273-4274).

[fol. 229] Exhibit A-40, consisting of five numbered pages, is a reproduction of certain data as to crops and various industrial activities, taken from the United States census of 1920 and from statistical abstracts of the United States for 1923, published by the Department of Commerce.

There are included in this statement statistics from a number of states with which we are not concerned in the present hearing, such as for example, Wyoming, Colorado and Utah, and those should be disregarded.

The statement was prepared and printed prior to the issuance of the orders under which this hearing has proceeded, and therefore the data is more extensive than required for the purposes of the present hearing.

I think the exhibit needs no further explanation. The source of the information and the character is clearly indicated by the captions and the foot notes (4275).

Neither Illinois or Wisconsin or Minnesota is included on page 2 of exhibit A-40. For some of those statistics I have not here the figures for the states east of the Missouri river. That is an omission that would have been supplied had this exhibit been prepared with this particular hearing in view. It was made up to supplement data already in the record in the previous case, but it bears particularly upon conditions in the southwestern states with which we are dealing here.

Answering the question as to whether the omission of those states would make a material difference in these figures comparatively speaking, I would say it is quite true that, comparatively speaking, it does not afford the opportunity to compare the one group of states with the other as to their progress.

Dairy products are not included in farm crops. Page 1 shows just soil crops.

[fol. 230] I have made some investigation of the records for the purpose of tracing the origin and the changes that have taken place in the merchandise percentages used in the divisions of class and general commodity rates between points in western trunk line territory and points in Oklahoma via Kansas City.

The first record we have of percentages applying on Oklahoma traffic is a division sheet issued by Mr. J. W.

Midgeley, chairman, Western Freight Association, effective October 1, 1888. The only Oklahoma points shown in the original division sheet were stations on the A. T. & S. F. Railway south of Arkansas City to and including Purcell, Oklahoma. In division of joint rates to and from these stations the lines east of the Missouri river were allowed 41 per cent at Chicago and 35 per cent at the Mississippi river. On October 1, 1891, in percentage book 2, these divisions were revised and the proportions of the roads east of the Missouri river reduced. To a few representative points on the Santa Fe in Oklahoma the percentage proportions east of the Missouri river were stated as follows:

To or from Ponca City, at Chicago, 39 per cent, Mississippi river, 34 per cent.

Guthrie, at Chicago, 37 per cent; Mississippi river, 32 per cent.

Oklahoma City, at Chicago, 36 per cent; Mississippi river 31 per cent.

Purcell, at Chicago 32 per cent; Mississippi river 27 per cent.

The percentages at stations on the line Purcell and north were again changed on June 19, 1893, in supplement 5 to Western Freight Association joint percentage book 3, which reduced the proportions of the roads east of the Missouri river to the following:

[fol. 231] Ponca City, at Chicago 38 per cent; Mississippi river 33 per cent.

Guthrie, at Chicago 34 per cent; Mississippi river 29 per cent.

Oklahoma City, at Chicago 32 per cent; Mississippi river 27 per cent.

Purcell, at Chicago 25 per cent; Mississippi river 20 per cent.

No change was made in these percentages from June 19, 1893, until July 1, 1925. Effective on that date, the percentages accruing to roads east of the Missouri river were increased 14 per cent, the new proportions being as follows (4275-4278).

Here follows a colloquy between counsel, the defendants objecting to the bringing into the case of an agreement between the lines, the objection being that the testimony that

is being offered has to do with an agreement, a compromise, to which Mr. Towner's client were parties and the testimony is not admissible in the record. The objection was overruled on the ground that the agreed divisions might be useful in comparing other divisions (4278-4281). An exception was taken to the ruling.

No change was made in these percentages from June 19, 1893, until July 1, 1925. Effective on that date, the percentages accruing to roads east of the Missouri river were increased 14 per cent, the new proportions being as follows:

Ponca City at Chicago, 43.3 per cent; Mississippi river 37.6 per cent.

Guthrie, at Chicago, 38.5 per cent; Mississippi river 33.1 per cent.

Oklahoma City, at Chicago, 36.5 per cent; Mississippi river 30.8 per cent.

[fol. 232] Purcell, at Chicago, 28.5 per cent; Mississippi river 22.8 per cent.

Percentage book 2, effective October 1, 1891, also provided percentages at stations on the Pan Handle division of the Santa Fe. The proportions east of the Missouri river on traffic to or from such stations at Waynoka, Woodward and Shattuck being 31 per cent at Chicago and 26 per cent at the Mississippi river. Those percentages continued in effect without change until July 1, 1925, when they were increased 14 per cent, and are now 35.3 per cent on Chicago traffic and 29.6 per cent on traffic to or from points taking Mississippi river rates.

Percentages were added at other stations on the Santa Fe System, as, for example, at points on the G. C. & S. F. Railway south of Purcell, such as Pauls Valley, Wynnewood and Ardmore, effective April 26, 1923, of 25 per cent east of the Missouri river on traffic to or from Chicago and 20 per cent to or from the Mississippi river. These percentages remained in effect without change until July 1, 1925. On that date they were increased by 14 per cent and the percentage divisions accruing to roads east of the Missouri river are 28.5 per cent at Chicago and 22.8 per cent at the Mississippi river.

The preceding objection was renewed (4282-4284).

Stations on the M. K. & T. Railway first appear in supplement 5 to percentage book 1, effective November 13, 1889.

The proportions east of the Missouri river on traffic to or from Vinita and Wagoner were 44 per cent at Chicago and 37 per cent at the Mississippi river; to and from Muskogee and McAlester 38 per cent at Chicago and 32 per cent at the Mississippi river; to and from Atoka and Durant 35 per cent at Chicago and 28 per cent at the Mississippi river.

[fol. 233] The percentages at Atoka were reduced December 28, 1896, to 26 per cent at Chicago and 21 per cent at the Mississippi river, and on February 1, 1899, to 25 per cent and 20 per cent, respectively. To Durant the percentages were reduced to 25 per cent on Chicago traffic and 20 per cent on Mississippi river traffic, effective December 28, 1896. The occasion for this change is explained in the following quoted from the proceedings of the special meeting of the Rate Committee of the Western Freight Association held in Chicago, December 1, 2, 3, 4, 8 and 9, 1896:

"Subject No. 28. Change in percentages desired at points on the M. K. & T. in Indiana Territory.

"The M. K. & T. Railway stated that on account of advance made in Tariff No. 150, on shipments from Frink to Denison, inclusive, whereby the rates to local Indian Territory stations were advanced to the Texas common point rates, they desired that consideration be given the matter of according the company the following percentages on merchandise:

"From stations Frink to Coalgate, inclusive, from the Mississippi river, east 21 per cent, west 79 per cent. From stations Smallwood to Colbert, inclusive, from the Mississippi river, east 20 per cent, west 80 per cent; from Chicago, east 25 per cent, west 75 per cent. It was urged that the figures named were practically the same as those carried by the G. C. & S. F. Railway to opposite stations where the Texas common point rates are applied, and, inasmuch as the latter basis was carried to most of the territory, it was felt that the divisions should also be made on the Texas basis."

The percentages published effective November 13, 1889, to Vinita have never been changed, but on February 1, 1889, percentages at Wagoner were reduced to 36 per cent on Chicago traffic and 31 per cent on Mississippi river traffic;

at Muskogee to 34 per cent and 29 per cent, respectively, [fol. 234] and at McAlester to 25 per cent and 20 per cent, respectively.

As other stations were added on the M. K. & T. in Oklahoma the same percentages were established as already in effect on other lines in the same territory.

The first stations on the St. L.-S. F. Railway in Oklahoma at which percentages were published by Chairman Midgley were Vinita, Tulsa and Sapulpa, effective March 9, 1891, the proportions east of the Missouri river being 41 per cent at Chicago and 37 per cent at the Mississippi river. These percentages have continued in effect without change.

Other stations were added at later dates on the same basis as already in effect via other lines.

Except in the southern half of Oklahoma where the old Texas common point percentages were used, we have no definite record as to the basis on which these percentages were constructed.

Following the establishment of percentages for dividing joint rates to and from Oklahoma points, there have apparently been two general changes, both of which resulted in reducing the proportions east of the Missouri river and increasing the proportions west and south thereof.

In June of 1893 reductions were made in the east of the Missouri river proportions to and from most points in central and northern Oklahoma, a typical illustration being a reduction in the Oklahoma City percentages from 41 to 32 per cent on Chicago traffic and 35 to 27 per cent on Mississippi river traffic. The next general change occurred during 1899, when the percentages at points south of Oklahoma City not already on the Texas common point basis were reduced to 25 per cent at Chicago and 20 per cent at the Mississippi river. Since that time there has been no change of importance, additional points being added from time to time on the basis already in effect on other lines in the same localities (4285-4287).

[fol. 235] In saying that there has been no change of importance, I failed to mention the 14 per cent increase on July 1. My statement may be considered as of June 30, 1925, and as of the present date as to the roads not involved in the July 1st change.

The percentage of 25 per cent at Chicago from Oklahoma was not changed when they were increased to 30 per cent from Texas. I do not know why those Oklahoma percentages of 25 per cent were not increased when the Texas percentages were increased. All I know is that they were not changed.

Cross-examination.

By Mr. Outlaw:

Pages 2, 3 and 4 of exhibit A-38 show for particular states an item of revenue per ton mile in mills. The revenue per ton mile in mills is derived by dividing the freight revenue by the tons carried one mile. Where a system of lines extends beyond the boundaries of one state, the calculation was not made for the system as a whole. Mr. Wettling, the manager of the statistical bureau of the western lines, obtained from the accounting departments of each of the roads the freight revenue allotted by them within the confines of each state. I know that it is a fact that those roads getting those figures themselves use what might be called a mileage pro rate where the revenue moves through or between more than one state. Answering the question as to whether those figures would not, therefore, represent the revenues that would accrue to the lines on actual divisions and consequently would not reflect properly the revenue level in that state, I would say that, of course, any general computation of this kind is subject, perhaps, to some such criticism, but I doubt whether that would seriously affect those figures. I do not, of course, know exactly how the larger systems that have mileages in many states would [fol. 236] apportion in each state the revenue on the shipments that might move from Chicago to the Pacific coast, for instance. I have heard that systems like the Santa Fe, the Burlington and North Western and such systems, that operate in 12 or 14 states, apportion revenue to each state on the basis of what is a mileage pro rate. I do not know as to those facts. If that were true, then the figures shown for Illinois would probably not affect the revenue level in Illinois; but when you come to compare these results with the earnings of the roads which are located exclusively on one side or the other of the gateway, they seem to reflect

about the normal differences that happen, so it seems to me the figures, while subject to the infirmity you point out, have a good deal of value for comparative purposes.

I do not know whether the Santa Fe reports these figures to Mr. Wettling as I have produced them; I assume they did; but I do know our figures are on a mileage pro rate and we report them to Mr. Wettling by states.

By Mr. Outlaw: Yes, but they don't represent actual divisions or actual rate levels in the particular territory.

Answering the question as to whether in using the state of Illinois in our western trunk line group we excluded from the lines of railroad that we used those lines probably of heavy traffic density such as the eastern lines which would not handle this traffic, I would say that as a matter of fact those roads do not report to Mr. Wettling, so we have not the figures. They are not included in the statement; the list of roads included are shown on page 6 of my exhibit.

There is a somewhat similar case in Kansas, in that there are a number of lines in Kansas that probably do not handle this traffic or handle it to an extremely limited extent. I refer particularly to the two lines which we have included in Kansas, the Chicago, Burlington and Quincy and the [fol. 237] Union Pacific systems. By reason of their geographical locations, I think it is a fact that they could handle in the state of Kansas practically no traffic from the southwest to or form western trunk line territory. So to the extent they are ilnes of very heavy traffic density, they might properly be excluded from our compilation of Kansas, and that would slightly reduce the Kansas figures as to traffic density; I do not know where it would place the earnings.

Answering the question whether in the same way that we made a separate group of western trunk lines, excluding Illinois, we could make a separate group including Kansas on the ground that there is a great deal of this traffic between the western trunk line territory and the southwestern territory that does not pass through the state of Kansas at all, I would say that the state of Kansas runs pretty close to the average for the group. The principal difference is in the rate per ton mile, Kansas being 12.65 mills and the average for the group 13.8 mills. Take out Kansas and I

imagine that would go up a tenth of a point. As to the traffic density in Kansas, we have 944,000 against an average of 916,000, but Kansas is somewhat heavier than the average. Our average is not materially increased by including Kansas. Of course, each state is there individually so you can follow along step by step from state to state.

Answering the question as to whether there is as much justification for excluding Kansas from one of these computations as there is for excluding Illinois, I would say that I am willing to do it.

Answering the question as to whether all of the figures on exhibit A-38 for the Chicago and North Western, C. B. & Q. and C. St. P. M. & O. for the year 1924 includes system [fol. 238] operations, and for every period before they include only the lines east of the Missouri river, and that, therefore, a definite comparison cannot be made between those two sets of figures, I would say that the 1910 and 1924 figures are system figures, prior to that they are not.

Now, as to the comparison, of course following a comparison of the changes on the same road, I am doubtful, because, for one thing, in the earlier days the roads did not have the same mileage, did not cover the same extent of territory. The purpose of the comparison is more to try to show, so far as we can, about what the conditions were in the one territory as compared with the other, so that where I could I took roads or parts of roads located wholly within each territory and where that could not be done, as in the latter case, I have taken the system as a whole. It is not so much the following of the changes on one particular road from year to year as it is to try to contrast, as best we may, the changing conditions (4294).

Answering the question as to whether we compare the two territories when we show for a part of the time the North Western system, and for a part of the time the North Western east of the Missouri river only, we have the same thing on the other. For instance, you have got the Wabash in the earlier years in Illinois and west. You have got the Santa Fe and Rock Island west. I don't think it would show enough difference to make a material change. It is not possible to get the subdivisions for the years after 1908. It is possible to get them for the earlier years. The separations are not available now.

Taking exhibit A-37, page 1, in our density of population per square mile for the two areas we reach a final figure in 1920 of 56.1 for the western trunk line group and 23.5 for the southwestern group. That would roughly indicate that the density of population in the western trunk line territory was roughly twice that in the southwestern at the present time. I used to think that the amount of traffic in a terri- [fol. 239] tory is roughly represented by the density of population of that territory as a general rule, but when we come to look over some of these western states, either way you answer that question you can prove the answer is wrong; but generally traffic reflects the activity of the people. I would not say that the traffic was proportionate to the density of population, it is more proportional to the density of population that is active in producing traffic. You have peculiar conditions, of course, where there may be a large traffic flowing through an *error* of somewhat limited population as contrasted with a more densely populated but less active industrial region on the other side. But the general rule would be that the greater number of people, the greater amount of traffic there would be in that territory; of course, the traffic that was there would be shown by what the railroads are actually carrying, not by the people who reside in the place.

Cross-examination.

By Mr. Larimore:

I testified that the percentages of the trunk line carriers were increased to Texas but not to Oklahoma. The service rendered by the trunk line carriers is identically the same whether traffic moves to Oklahoma or to Texas.

Cross-examination.

By Mr. Muckley:

I have not made any figures showing the increase in value of manufactured products for the respective states. I think those figures are available. I would rather not attempt to answer whether the increase in value of those commodities in the western trunk line states greatly exceed the increase in value of the manufactured products

in the southwestern states because I cannot answer with enough confidence as to the exact figure. I know the value of the manufactures in the western trunk line states is very [fol. 240] large. It is quite true that there is a considerable volume of manufactured products moving from western trunk line territory to the southwest. There is a very small volume of manufactured products moving from the southwest to western trunk line territory, comparatively speaking.

Cross-examination.

By Mr. Larimore:

My impression is that the movement of dairy products is almost wholly from the west and southwest to the east and not in the reverse direction. Butter originates more in Minnesota and the west and the poultry products, eggs, chickens, and things of that kind, I think Missouri is the primary state for that.

Cross-examination.

By Examiner Disque:

Answering the question as to whether, if the traffic density in one territory was one-half of that in the other territory, a mile in one territory would equal a mile and a quarter in another territory or a mile and a half, and to what extent the difference in traffic density should be reflected in making the divisions, I would say that the traffic density is only one of the factors that would have to be considered in reaching a conclusion. You could not make divisions, it seems to me, that would be fair to either set of lines purely in proportion to the density of traffic. You would have to take into account the relative service that they performed and the relative cost of performing that service (4298). If the costs were equal, then the only additional consideration the line with less traffic would be entitled to would be the need for its overhead expense. It would be entitled to nothing on its operating expenses. The traffic density af- [fol. 241] fects both, but not in proportion of the ratio of density in one territory as contrasted with another. I pre-

fer to reserve an answer to the question of whether, for instance, in considering the territory south of Kansas City we should consider a mile of transportation equal to three-fourths of a mile north of Kansas City or a half a mile north of Kansas City or whether a mile north of Kansas City would be equal to a mile and a half south of Kansas City or a mile and a quarter south of Kansas City.

Cross-examination.

By Mr. Muckley:

The rate levels in the respective territories would be another factor that should be considered. The rate level south of Kansas City is generally higher than it is north of Kansas City. How much, I do not know, but exhibit A-39 has some bearing in that matter. I would use both class rates and commodity rates in making comparison of the rate levels in the two territories. Answering the question as to which is the more representative of the normal level of rates, the class rates or commodity rates, I would say that they vary in every territory. Our class rates in the territory north of Kansas City would be used to a fair extent. We have a great many commodity rates. I have been led to understand and it seems confirmed by the many reports of the Commission that the class rates south of Kansas City are little used, so that there is a considerable amount of traffic on which we actually charge our class rates, but which is subject to commodity rates south. I doubt if any purely rate comparison would definitely answer the question that you ask, and I have not gone far enough to reach any conclusion in my own mind as to where the rate levels would finally stand. I have compiled the figures put in in exhibit A-39 as perhaps the best we [fol. 242] could get of that kind (4300). I have made several comparisons between western trunk lines and southwestern lines as shown on exhibit A-38 showing the number of roads that earn so much per mile in various periods between western trunk lines and southwestern lines. Answering your question as to the value of those comparisons in view of the fact that we have considerably more lines in the southwest than in western trunk line territory, I would say that the number of lines is necessarily determined by

the number of lines there are in the eastern territory and not by any choice of mine.

There are quite a number of lines shown on this exhibit that are a part of the Southern Pacific Lines in Texas and are usually considered as one system. We show them all separately because their reports are all made to the Commission. We also show, for example, all of the Texas lines separately from the parent companies operating in the balance of the southwest. I have taken them just as they report their earnings and expense to the Commission. That, of course, increases the number of corporate lines in the southwest. The Kansas, Oklahoma & Gulf of Texas has 9.1 miles in Texas. The T. & F. S. operates 81.08 miles of railroad in Texas.

Cross-examination.

By Mr. Swenson:

On page 3 of my exhibit showing the production of cottonseed in Texas and other states, I left out the 1924 figures because I could not get them. I understood that generally Texas had suffered from drought, and that the agricultural production in many lines was limited, but what the exact conditions were, I am not able to state. I would say that the 1924 figures represent the average condition in Texas. I do not know what they were last year. What I spoke of were the conditions that we hear of in this year.

[fol. 243] Redirect examination.

By Mr. Towner:

A higher rate level in one territory than in another territory is ordinarily justified by higher cost of operation and smaller density of traffic (which generally increases cost of operation); and ordinarily, if the higher cost of operation does not exist, there is no justification for the higher rate level.

Examination.

By Examiner Disque:

Those things are all affected by competition.

Recross-examination.

By Mr. Muckley:

In my exhibit comparing traffic densities, I included Kansas in the southwestern lines. I stated the reason for so doing, in exhibit A-39, was because the traffic from western trunk lines moved through Kansas. A part of the traffic handled through Kansas City via a number of the routes would pass through the state of Kansas. The Atchison, Topeka & Santa Fe, the Chicago, Rock Island & Pacific, and the Kansas City Southern, for a short distance, would handle that traffic. I think it is true that the Kansas City Southern has only about ten miles in Kansas. They are mostly in Missouri (4307). The Missouri Pacific, I think, via some routes would handle it through the state of Kansas. I am not certain as to what their usually used route is, whether it is down through Kansas or on the Missouri side. All of those lines are in the eastern part of Kansas with a relatively short mileage. Yet we have included the entire state of Kansas, and given to Kansas density as much weight in the average as we have that of any other state (4308). Of course, each state is shown individually, so that its relative importance, and the extent to which it might have affected the average, is very readily seen (4308).

[fol. 244] The hearing adjourned from October 15, 1925, to November 16, 1925; but immediately prior to the adjournment, Mr. Towner stated that Mr. Behrle was to furnish a list of supplements to the division sheets which had been offered in evidence. It was agreed that this list should take the exhibit number of some previous exhibit, and that a copy thereof would be mailed promptly to counsel for the respondents.

[fol. 245] Mr. Towner: Now, there was one other thing that I wanted to clear up, Mr. Examiner. I asked counsel yesterday to agree with me with respect to these tariffs, and they agreed with me all right, but I find on looking at the transcript that I did not cover quite as much territory as I intended to.

The agreement that we entered into yesterday was that the list which was put into the record might be put in in lieu of the tariffs themselves, with the understanding that

any completed record in the case would contain the tariffs themselves.

I would like to have that understanding broadened to include an agreement that the tariffs as itemized in the list are to be considered as a part of the record. I imagine that that is the effect of the agreement that we have made now.

I ask that for the reason, Mr. Examiner, that these southwestern divisions so frequently depend upon the measure of the rate that in individual cases it probably would be necessary to refer to the tariff to ascertain what the division was.

I do not want to burden the record with all of these tariffs, and I do not think anybody wants me to do it. But I would like to have that agreement, that we made yesterday, broadened to include an agreement among the lines parties here that the tariffs as listed in the exhibit that was put in, containing the list of tariffs, could be considered as a part of the record.

Mr. Outlaw: Such understanding is agreeable to the Santa Fe Companies, Mr. Examiner.

Mr. Towner: Is that all right?

Mr. Larimore: I see no objection.

Mr. Muckley: All right.

Mr. Towner: Well, then, that is all that I have to offer today, Mr. Examiner (Tr. 4310-4312).

[fol. 246] AGREEMENT RE EXHIBIT "A-9"

It was agreed between the parties that the tariffs listed in Exhibit No. A-9 offered on the hearing before the Commission and referred to in the transcript of evidence filed herein, contain the then applicable specific rates, the division of which was prescribed by the Commission in its orders; that said tariffs were in evidence before the Commission and the District Court as a part of the records made before said Commission and said Court; and that this statement shall be taken as a full and correct statement of what said tariffs contain.

It was further agreed that none of said tariffs listed in said Exhibit No. A-9 need be physically included in the record or exhibits certified to the Supreme Court, and

that no exception shall be taken by either party to the physical omission of said tariffs from the transcript of evidence and exhibits certified to the Supreme Court, and that no party shall claim that the transcript of the record is insufficient because of their omission therefrom.

[fol. 247] There was also a discussion as to whether points on the west bank of the Mississippi should or should not be included in western trunk lines. It was agreed that New Orleans and points opposite New Orleans should be excluded. Mr. Towner was unable to state whether the other points should or should not be excluded.

[fol. 248] (Further Hearing November 16, 17, and 18, 1925)

Exam. Disque: Come to order, please. The further hearing will be at this time resumed in Docket No. 15234. You may proceed, Mr. Towner.

Attorney Towner inquired whether or not the attorneys for the southwestern lines had come to any decision concerning his offer to arbitrate the case. Attorneys Muckley, Larimore and Davis replied that the railroads which they represented had the matter under consideration, but had arrived at no definite decision (Tr. 4322-4323).

Mr. Towner: There is one thing more, Mr. Examiner: You will recall that at the conclusion of the last hearing some question was raised with respect to the elimination of certain points. I think they were called Mississippi river prorating points, which are geographically included within the scope of the hearing, but as to which a suggestion was made that they be eliminated.

Now, I had a traffic man check out a list of those points, and I sent a copy of that list to everybody of record, and I assume they received it. I have not had any indication from anybody as to whether or not the elimination of the list of points would be satisfactory, except that I received a letter from the Texas & Pacific, Mr. Morrow, objecting to the inclusion of certain points on the Texas & Pacific.

It was agreed that the question as to the points which should be eliminated would be taken up later (Tr. 4325-4326).

CLIFTON F. BALCH was thereupon called as a witness on behalf of the Western Trunk line respondents, and testified as follows:

Direct examination:

I have testified in this case before, that is in Docket 15234. I have had prepared a traffic check of the traffic between the [fol. 249] Western Trunk line and the Southwestern territory as defined in the Commission's orders. Exhibit A-41 is a statement for the Chicago and North Western Railway of freight traffic moving under southwestern rates and divisions for the month of June, 1924. This is carload traffic, as I understand it (Tr. 4326-4327).

(Exhibit A-41 was received in evidence.)

[fol. 250] On page marked No. 1 of exhibit A-41, the first field is marked Sheet A. Sheet A is the summary of the traffic moving under southwestern rates and divisions for the month of June, 1924, handled by the Chicago and North Western Railway classified as to lumber and oil and livestock and all other carload freight, showing the traffic moving via Council Bluffs and Omaha separately from that moving via Kansas City, and that separately moving via St. Louis, Thebes and other southern junctions.

The figures shown in the lower field of page 1 show the groupings in the first instance for lumber eastbound, to points in Iowa; then it shows the number of cars, the weight, the revenue, the divisions as made in the accounts, the way it was settled, and the ratio of the revenue to the lines east of the junction or west of the junction, and in the next line the revenue per car mile in cents, and below that the revenue per ton mile; below that the average distance hauled; below that the ratio of the mileage north and south of the junction, and the division on a mileage basis; the revenue per car mile on the mileage basis and the revenue per ton mile on the mileage basis.

Now, the details of those eleven cars will be found on sheet marked No. 2 of this exhibit, and the little index in the lower part of the lower field gives the reference to the details showing each car separately, and in the case of these eleven cars I am turning to page No. 2.

You will see there is one car from Warren and Quachita Valley Railroad of lumber originating at Warren and Cloquet, Arkansas, going to Stanhope, Iowa. This car was 37,900 pounds in weight and the revenue was $112.67; the distance 853 miles; the revenue per car mile, 13.21 cents; the tons one mile, 16,165; the revenue per ton mile, 7 mills. The revenue on a mileage basis to the lines north of the junction would have been $129.09.

[fol. 251] Now, the revenue as divided gave the lines north $40.83 for 161 car miles. The revenue per car mile is 25.36 cents; the tons one mile, 3,050; the revenue per ton mile, 13.4 mills, and the revenue on a mileage basis would be $24.41 (Tr. 4328-4329).

In other words, I have given the data with respect to each individual shipment both north and south of the junction. All the way through the exhibit, you will find the detail in that same form. In some instances the revenue on a mileage basis is less than as divided; in other instances, you will find the revenue on a mileage basis is more than as divided. The exhibit shows a great variety of results. The entire details supporting the information shown on the front page, that is sheet A, is found in the exhibit which consists altogether of 28 pages. By saying there is a great variety of results, I mean there is no uniformity in the results obtained as measured by the ton mile earnings or the car mile earnings. These are the facts as they appear in the records, the results obtained by taking an exact mileage prorate. A mileage prorate would not in every instance increase the divisions north of Kansas City (Tr. 4329-4330).

Referring to the first sheet, the figures in the upper field, marked A, shows that via Council Bluffs, the mileage basis is less than the present divisions on lumber, oil is just a little less, and other freight is considerably more. Then via Kansas City the mileage basis is less than the present basis, the oil is less, the livestock is more, and other freight is considerably more. Via St. Louis, the lumber mileage prorate is considerably more, the oil is more, and the other freight is more. The total shows that all of this mileage prorate basis would give the lines north of Council Bluffs $15,351.77 more than the present existing basis of divisions (Tr. 4330-4331).

[fol. 252] I have made up similar statements for other Western Trunk lines. They are made up in the same form. I should call attention to the fact that the information is grouped, as is done in the lower part of field 1, by traffic going to Chicago and Illinois, excluding Chicago points in Illinois outside of Chicago, and points in Wisconsin and points in Iowa. This is for convenience in analyzing the statement. This statement as well as the other statements which I will offer cover all carload freight moving in the month of June, 1924, under these rates and divisions (Tr. 4331).

Exhibit A-41 includes both northbound and southbound traffic. The lower field on page 1 refers to northbound traffic because the lumber and oil is all northbound. I believe livestock is all northbound. On page No. 3 of exhibit A-41 is a statement of all carload freight traffic except lumber, oils and livestock moving both northbound and southbound. The exhibit covers all carload traffic moving during the month, irrespective of direction (Tr. 4332-4333).

Exhibit A-42 is a similar statement for the Chicago, St. Paul, Minneapolis & Omaha Railway (Tr. 4333).

(Exhibit A-42 was received in evidence.)

The next exhibit, A-42, is a similar statement for the Illinois Central Railway (Tr. 4333).

(Exhibit A-43 was received in evidence.)

Exhibit A-44 is a statement for the Chicago & Alton (Tr. 4333-4334).

(Exhibit A-44 was received in evidence.)

Exhibit A-45 is a statement for the Chicago, Milwaukee & St. Paul Railway (Tr. 4334).

(Exhibit A-45 was received in evidence.)

Exhibit A-46 is a statement for the Wabash (Tr. 4334).

(Exhibit A-46 was received in evidence.)

[fol. 253] Exhibit A-47 is a similar statement for the Chicago Great Western (Tr. 4335).

(Exhibit A-47 was received in evidence.)

Exhibit A-48 is a statement of similar character for the Minneapolis & St. Louis Railway Company (Tr. 4335).

(Exhibit A-48 was received in evidence.)

Exhibit A-49 is a similar one for the Chicago and Eastern Illinois (Tr. 4335).

[fol. 254] What I said in explanation of the North Western statement, exhibit A-41, is true of all of the statements. They were gotten up under the same instructions and upon the same forms. Of course, we had to depend upon the several auditors of the different companies for the detail, but so far as possible they are all in the same form and reflect the same information (Tr. 4336).

I have prepared an exhibit consisting of 7 pages which shows, for the lines interested in this particular controversy, on page No. 1, the density of traffic, the tons one mile per mile of road in all of the different states traversed by these carriers for the year 1923. On page No. 2, I have shown the same information, the traffic density of all the lines interested in the different states traversed by them for the year 1924. This exhibit was thereupon offered in evidence as exhibit A-50 (Tr. 4336).

Exhibit A-50 was received in evidence, which said exhibit, omitting title page, is in words and figures as follows:

(Here follows Exhibit No. A-50, side folios 255, 256, 257, 258, 259, 260, and 261)

[fol. 255]

EXHIBIT No. A-50
Witness: C. F. Balch
Page 1 of 7 Pages
I. C. C. Docket 15234

Statement Showing "Tons One Mile per Mile of Line," Segregated by States, Ye

Name of line	Michigan, upper peninsula	Wisconsin	Minnesota	Illinois	Missouri	Iowa	Ka
Chicago & Alton	.....	.....	.....	2,472,571	1,896,601	.....	....
Chicago & Eastern Illinois	.....	.....	.....	2,726,398	.....	.....	....
Chicago & North Western	945,904	1,164,395	554,771	2,644,996	.....	1,411,827	....
Chicago, Burlington & Quincy	.....	4,135,074	2,285,753	2,792,152	1,543,711	768,664	12
Chicago Great Western	.....	.....	664,494	2,888,389	1,429,661	1,292,999	1,41
Chicago, Milwaukee & St. Paul	1,174,615	1,166,882	1,124,762	2,531,377	1,990,291	1,089,124	....
Chicago, St. Paul, Mpls. & Omaha	.....	1,206,825	959,356	.....	.....	829,255	....
Illinois Central	.....	122,834	629,788	3,840,257	.....	1,425,113	....
Minneapolis & St. Louis	.....	.....	972,126	1,949,480	.....	757,305	....
Mpls., St. Paul & Sault Ste. Marie	652,511	1,102,076	885,304	2,712,975	.....	.....	....
Quincy, Omaha & Kansas City	.....	.....	.....	55,248	219,721	.....	....
Wabash	.....	.....	.....	2,014,024	1,456,368	646,263	....
Atchison, Topeka & Santa Fe System	.....	.....	.....	3,193,213	2,935,459	4,352,720	94
Chicago, Rock Island & Pacific Lines(b)	.....	.....	616,815	3,383,101	1,179,895	730,618	1,29
Fort Worth & Denver City	.....	.....	.....	.....	.....	.....	....
Gulf Coast Lines(c)	.....	.....	.....	.....	.....	.....	....
Galveston, Harrisburg & San Antonio	.....	.....	.....	.....	.....	.....	....
Gulf, Colorado & Santa Fe	.....	.....	.....	.....	.....	.....	....
Houston & Texas Central	.....	.....	.....	.....	.....	.....	....
Houston East & West Texas	.....	.....	.....	.....	.....	.....	....
International & Great Northern	.....	.....	.....	.....	.....	.....	....
Kansas City, Mex. & Orient System(d)	.....	.....	.....	.....	.....	.....	5
Kansas City Southern	.....	.....	.....	.....	2,463,752	.....	2,2
Kansas, Oklahoma & Gulf(e)	.....	.....	.....	.....	.....	.....	1
Louisiana Ry. & Nav. Co	.....	.....	.....	.....	.....	.....	....
Louisiana Ry. & Nav. Co. of Texas	.....	.....	.....	.....	.....	.....	....
Missouri, Kansas & Texas Lines(f)	.....	.....	.....	.....	1,270,822	.....	1,1
Missouri Pacific	.....	.....	.....	3,048,990	1,055,726	.....	7
Panhandle & Santa Fe	.....	.....	.....	.....	.....	.....	....
St. Louis-San Francisco Lines(g)	.....	.....	.....	.....	947,225	.....	1,0
[illegible] Southwestern				[illegible]	[illegible]		

EXHIBIT No. A-50

Witness: C. F. Balch

I. C. C. Docket 15234

ment Showing "Tons One Mile per Mile of Line," Segregated by States, Year 1923

Michigan, upper Peninsula	Wisconsin	Minnesota	Illinois	Missouri	Iowa	Kansas	Oklahoma	Arkansas	Louisiana	Texas
.....	.....	.....	2,472,571	1,896,601	.....	.....	.....	.....	.....	.....
.....	.....	.....	2,726,398	.....	.....	.....	.....	.....	.....	.....
945,904	1,164,395	554,771	2,644,996	.....	1,411,827	.....	.....	.....	.....	.....
.....	4,135,074	2,285,753	2,792,152	1,543,711	768,664	121,224	.....	.....	.....	.....
.....	.....	664,494	2,888,389	1,429,661	1,292,999	1,417,528	.....	.....	.....	.....
1,174,615	1,166,882	1,124,762	2,531,377	1,990,291	1,089,124	.....	.....	.....	.....	.....
.....	1,206,825	959,356	.....	.....	829,255	.....	.....	.....	.....	.....
.....	122,834	629,788	3,840,257	.....	1,425,113	.....	.....	.....	.....	.....
.....	.....	972,126	1,949,480	.....	757,305	.....	.....	.....	.....	.....
652,511	1,102,076	885,304	2,712,975	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	55,248	219,721	.....	.....	.....	.....	.....	.....
.....	.....	.....	2,014,024	1,456,368	646,283	.....	.....	.....	.....	.....
.....	.....	.....	3,193,213	2,935,459	4,352,720	948,092	904,579	.....	463,504	640,900
.....	.....	616,815	3,383,101	1,179,895	730,618	1,293,055	647,404	958,041	588,579	637,312
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1,027,813
.....	.....	.....	.....	.....	.....	.....	.....	.....	1,031,314	606,047
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1,225,646
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	917,505
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	695,648
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	703,887
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	584,567
.....	.....	.....	.....	.....	.....	522,952	519,501	.....	.....	220,524
.....	.....	.....	.....	2,463,752	.....	2,220,236	2,028,331	2,083,843	1,553,323	.....
.....	.....	.....	.....	.....	.....	165,861	527,768	.....	.....	399,765
.....	.....	.....	.....	.....	.....	.....	.....	.....	641,949	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....	263,603	292,826
.....	.....	.....	.....	1,270,822	.....	1,150,150	808,995	.....	390,529	588,635
.....	.....	.....	3,048,990	1,055,726	.....	711,327	2,137,026	1,221,525	608,599	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	714,368
.....	.....	.....	.....	947,225	.....	1,093,327	750,088	640,110	.....	288,714
.....	.....	.....	1,733,836	1,133,387	.....	.....	.....	1,363,725	578,702	.....

Louisiana Ry. & Nav. Co. of Texas							
Missouri, Kansas & Texas Lines(f)					1,270,822		1,150
Missouri Pacific				3,048,990	1,055,726		711
Panhandle & Santa Fe							
St. Louis-San Francisco Lines(g)					947,225		1,093
St. Louis Southwestern				1,733,836	1,133,387		
St. Louis Southwestern of Texas							
San Antonio & Aransas Pass							
Southern Pacific-Louisiana Lines (a)							
Vicksburg, Shreveport & Pacific							
Texarkana & Fort Smith							
Texas & Pacific							
Total all Class I Roads	829,521	1,236,041	1,401,089	2,785,371	1,291,959	1,018,161	858

(a) Includes M. L. & T. and La. Western. (b) Includes C. R. I. & G. (c) Includes Beau., Sour Lak
& Mex. and New Orleans. (d) Includes Kans. City, Mex. & Or. of Tex. (e) Includes K. O. & G. of
of Tex. (g) Includes St. L.-S. F. of Tex. /Tex. & Mex.

.....	.....	.....	.....	.....	.....	.....	.....	.....	263,603	292,826
.....	.....	.....	.....	1,270,822	.....	1,150,150	808,995	.....	390,529	588,635
.....	.....	.....	3,048,990	1,055,726	.....	711,327	2,137,026	1,221,525	608,599	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	714,368
.....	.....	.....	.....	947,225	.....	1,093,327	750,088	640,110	.....	288,714
.....	.....	.....	1,733,836	1,133,387	.....	.....	.....	1,363,725	578,702	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	480,258
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	294,520
.....	.....	.....	.....	.....	.....	.....	.....	.....	1,229,551	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....	898,219	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1,791,956
.....	.....	.....	.....	.....	.....	.....	.....	84,650	586,253	842,553
829,521	1,236,041	1,401,089	2,785,371	1,291,959	1,018,161	858,773	787,220	1,046,264	816,922	693,040

T. and La. Western. (b) Includes C. R. I. & G. (c) Includes Beau., Sour Lake & Western, St. L., Brownsv.
s. (d) Includes Kans. City, Mex. & Or. of Tex. (e) Includes K. O. & G. of Tex. (f) Includes M. K. & T.
L.–S. F. of Tex. /Tex. & Mex.

Statement Showing "Tons One Mile per Mile of Line," Segregated by States, Y

Name of line	Michigan, upper peninsula	Wisconsin	Minnesota	Illinois	Missouri	Iowa	
Chicago & Alton	.....	.....	.....	2,161,493	1,846,565	.....	.
Chicago & Eastern Illinois	.....	.....	.....	2,559,381	.....	.....	.
Chicago & North Western	774,338	1,022,850	539,320	2,351,002	.....	1,237,637	.
Chicago, Burlington & Quincy	.....	2,989,154	1,629,291	2,638,089	1,574,455	758,487	
Chicago Great Western	.....	.....	675,556	2,691,498	1,478,831	1,291,653	1,
Chicago, Milwaukee & St. Paul	1,024,358	1,042,436	1,089,024	2,304,422	2,092,790	1,055,953	.
Chicago, St. Paul, Mpls. & Omaha	.....	1,184,730	1,027,395	.....	.....	841,062	.
Illinois Central	.....	128,830	466,501	3,213,441	.....	1,302,447	.
Minneapolis & St. Louis	.....	.....	928,818	1,702,128	.....	721,756	.
Minneapolis, St. Paul & Sault Ste. Marie	592,596	1,055,223	893,278	2,344,673	.....	.....	.
Quincy, Omaha & Kansas City	.....	.....	.....	51,498	160,537	.....	.
Wabash	.....	.....	.....	2,231,026	1,492,653	652,316	.
Atchison, Topeka & Santa Fe (System) (a)	.....	.....	.....	3,044,053	2,721,898	4,102,937	
Chicago, Rock Island & Pacific (b)	.....	.....	696,626	3,319,582	1,240,884	744,176	1,
Fort Worth & Denver City	.....	.....	.....	.....	.....	.....	.
Gulf Coast Lines (c)	.....	.....	.....	.....	.....	.....	.
International & Great Northern	.....	.....	.....	.....	.....	.....	.
Kansas City, Mexico & Orient (System) (d)	.....	.....	.....	.....	.....	.....	
Kansas City Southern	.....	.....	.....	.....	2,205,049	.....	1,
Kansas, Oklahoma & Gulf (e)	.....	.....	.....	.....	.....	.....	
Louisiana Ry. & Navigation Co	.....	.....	.....	.....	.....	.....	.
Louisiana Ry. & Navigation Co. of Texas	.....	.....	.....	.....	.....	.....	.
Missouri, Kansas & Texas (f)	.....	.....	.....	.....	1,283,943	.....	1,
Missouri Pacific	.....	.....	.....	3,487,938	1,227,160	.....	
St. Louis-San Francisco (Lines)(g)	.....	.....	.....	.....	965,255	.....	1,
St. Louis Southwestern	.....	.....	.....	1,387,873	928,653	.....	.
St. Louis Southwestern of Texas	.....	.....	.....	.....	.....	.....	.
San Antonio & Aransas Pass	.....	.....	.....	.....	.....	.....	.
Southern Pacific-Texas Lines (h)	.....	.....	.....	.....	.....	.....	.
Southern Pacific-Louisiana Lines (i)	.....	.....	.....	.....	.....	.....	.
Texarkana & Ft. Smith	.....	.....	.....	.....	.....	.....	.
Texas & Pacific	.....	.....	.....	.....	.....	.....	.
Vicksburg, Shreveport & Pacific	.....	.....	.....	.....	.....	.....	

t Showing "Tons One Mile per Mile of Line," Segregated by States, Year 1924

chigan, pper insula	Wisconsin	Minnesota	Illinois	Missouri	Iowa	Kansas	Oklahoma	Arkansas	Louisiana	Texas
.....	.....	.....	2,161,493	1,846,565	.....	.....	.....	.....	.....	.....
.....	.....	.....	2,559,381	.....	.....	.....	.....	.....	.....	.....
74,338	1,022,850	539,320	2,351,002	.....	1,237,637	.....	.....	.....	.....	.....
.....	2,989,154	1,629,291	2,638,089	1,574,455	758,487	149,614	.....	.....	.....	.....
.....	.....	675,556	2,691,498	1,478,831	1,291,653	1,468,709	.....	.....	.....	.....
24,358	1,042,436	1,089,024	2,304,422	2,092,790	1,055,953	.....	.....	.....	.....	.....
.....	1,184,730	1,027,395	.....	.....	841,062	.....	.....	.....	.....	.....
.....	128,830	466,501	3,213,441	.....	1,302,447	.....	.....	.....	.....	.....
.....	.....	928,818	1,702,128	.....	721,756	.....	.....	.....	.....	.....
92,596	1,055,223	893,278	2,344,673	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	51,498	160,537	.....	.....	.....	.....	.....	.....
.....	.....	.....	2,231,026	1,492,653	652,316	.....	.....	.....	.....	.....
.....	.....	.....	3,044,053	2,721,898	4,102,937	975,224	967,470	.....	420,258	1,082,456
.....	.....	696,626	3,319,582	1,240,884	744,176	1,468,118	745,313	849,270	584,688	756,232
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1,236,029
.....	.....	.....	.....	.....	.....	.....	.....	.....	1,289,512	815,160
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	622,651
.....	.....	.....	.....	.....	.....	773,219	770,381	.....	.....	292,642
.....	.....	.....	.....	2,205,049	.....	1,552,012	1,794,276	1,868,517	1,493,373	.....
.....	.....	.....	.....	.....	.....	164,400	448,525	.....	.....	482,542
.....	.....	.....	.....	.....	.....	.....	.....	.....	802,505	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....	385,289	403,265
.....	.....	.....	.....	1,283,943	.....	1,159,043	918,113	.....	.....	810,900
.....	.....	.....	3,487,938	1,227,160	.....	831,993	2,533,985	1,347,337	1,013,517	.....
.....	.....	.....	.....	965,255	.....	1,178,595	856,480	642,227	.....	327,869
.....	.....	.....	1,387,873	928,653	.....	.....	.....	1,117,254	431,440	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	440,439
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	380,447
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1,043,706
.....	.....	.....	.....	.....	.....	.....	.....	.....	1,124,969	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1,754,088
.....	.....	.....	.....	.....	.....	.....	.....	139,287	596,141	1,007,189
.....	.....	.....	.....	.....	.....	.....	.....	.....	1,024,133	.....

Southern Pacific-Louisiana Lines (i)							
Texarkana & Ft. Smith							
Texas & Pacific							
Vicksburg, Shreveport & Pacific							
Total all Class I Roads	703,893	1,107,780	1,281,300	2,540,883	1,324,435	972,721	9

(a) Includes A. T. & S. F., G. C. & S. F., Panhandle & S. Fe. (b) Includes C. R. I. & G. (c) West., St. L. B. & M., N. O. T. & M. (d) Includes K. O. M. & O. of Texas. (e) Includes K. O. & & T. of Texas. (g) Includes St. L.–S. F. of Texas. (h) Includes G. H. & S. A., H. E. & W. T., H. M. L. & T., La. West.

....	.....	.....	.....	.....	.....	.....	.....	.....	1,127,000	.....
....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1,754,088
....	.....	.....	.....	.....	.....	.....	.....	139,287	596,141	1,007,189
....	.....	.....	.....	.....	.....	.....	.....	.....	1,024,133	.....
,893	1,107,780	1,281,300	2,540,883	1,324,435	972,721	944 308	877,045	1,043,253	913,058	812,081

F., G. C. & S. F., Panhandle & S. Fe. (b) Includes C. R. I. & G. (c) Includes Beaumont, Sour Lake & O. T. & M. (d) Includes K. O. M. & O. of Texas. (e) Includes K. O. & G. of Texas. (f) Includes M. K. es St. L.–S. F. of Texas. (h) Includes G. H. & S. A., H. E. & W. T., H. & T. C., T. & N. O. (i) Includes

I. C. C. Docket No. 15234

Statement of Property Investment and Net Income
Year Ended December 31, 1923

Railroad or system	Average miles operated	Net railway operating income	Net railway operating income per mile of road	Investment in road and equipment	Ratio, %	Inv rd. & mat supp
Atchison, Topeka & Santa Fe	8,857.21	$35,509,009	$4,009.05	$728,350,197	4.88	$573,
Beaumont, Sour Lake & Western	118.75	263,608	2,219.86	3,326,076	7.93	3,
Chicago & Alton	1,050.51	1,532,188	1,458.52	144,812,587	1.06	146,
Chicago & Northwestern	8,403.82	17,036,305	2,027.21	455,737,729	3.74	466,
Chicago, Burlington & Quincy	9,393.69	25,152,174	2,677.56	545,883,985	4.61	562,
Chicago Great Western	1,496.06	265,187	177.26	166,992,432	.16	168,
Chicago, Milwaukee & St. Paul	11,029.86	13,284,245	1,204.39	697,674,890	1.90	711,
Chicago, Rock Island & Pacific	7,655.00	13,934,469	1,820.31	375,364,494	3.71	385,
Chicago, Rock Island & Gulf	461.23	722,101	1,565.60	18,832,154	3.83	19,
Chicago, St. Paul, Mpls. & Omaha	1,749.19	3,812,671	2,179.68	86,839,382	4.39	88,
Chicago & Eastern Illinois	945.13	2,721,469	2,879.47	79,731,781	3.41	82,
Fort Worth & Denver City	456.31	2,438,054	5,342.98	30,383,133	8.02	31,
Galveston, Harr. & San Antonio	1,379.85	1,994,775	1,445.65	80,867,440	2.47	83,
Gulf, Colorado & Santa Fe	1,907.74	4,192,458	2,197.60	62,509,421	6.71	56,
Houston East & West Texas	191.60	141.949	740.86	5,982,526	2.37	6,
Houston & Shreveport	40.70	178,959	4,392.71	806,293	22.20	
Houston & Texas Central	923.17	2,022,081	2,190.37	45,320,076	4.46	46,
Illinois Central	4,784.52	25,121,128	5,250.50	419,562,924	5.99	432,
International & Great Northern	1,159.50	1,318,388	1,137.03	40,662,986	3.24	42,
Kansas City, Mexico & Orient	272.20	D 151,222	D 555.55	22,262,277	D	22,
Kansas City, Mex. & Orient of Texas	465.75	D 323,671	D 694.95	6,900,454	D	6,
Kansas City Southern	767.60	2,928,772	3,815.49	98,453,318	2.97	100,
Kansas, Oklahoma & Gulf (a)	314.45	526,254	1,673.57	18,185,265	2.89	18,
Louisiana Ry. & Nav. Co.	343.67	88,637	257.91	22,270,698	.40	22,
Louisiana Ry. & Nav. Co. of Tex.			Not in Operation			
Mpls., St. Paul & S. S. Marie	4,383.57	7,178,972	1,637.70	208,036,152	3.45	212
Mpls. & St. Louis	1,649.90	883,800	535.67	65,315,868	1.35	66
Missouri, Kansas & Texas (b)	1,999.57	9,114,553	4,558.26	197,485,046	4.62	201
Missouri, Kans. & Texas of Tex.	1,737.89	1,280,467	736.79	76,410.139	1.68	80
Missouri Pacific	7,261.78	8,247,035	1,135.68	388,039,609	2.13	397

I. C. C. Docket No. 15234

Statement of Property Investment and Net Income
Year Ended December 31, 1923

Road or system	Average miles operated	Net railway operating income	Net railway operating income per mile of road	Investment in road and equipment	Ratio, %	Invest. in rd. & equip., material & suppl. incl.	Ratio, %
& Santa Fe	8,857.21	$35,509,009	$4,009.05	$728,350,197	4.88	$573,543,361	4.71
Lake & Western	118.75	263,608	2,219.86	3,326,076	7.93	3,326,076	7.93
	1,050.51	1,532,188	1,458.52	144,812,587	1.06	146,161,423	1.05
western	8,403.82	17,036,305	2,027.21	455,737,729	3.74	466,857.160	3.65
on & Quincy	9,393.69	25,152,174	2,677.56	545,883,985	4.61	562,471.264	4.47
estern	1,496.06	265,187	177.26	166,992,432	.16	168,512,018	.16
ee & St. Paul	11,029.86	13,284,245	1,204.39	697,674,890	1.90	711,005,038	1.87
and & Pacific	7,655.00	13,934,469	1,820.31	375,364,494	3.71	385,275,378	3.62
and & Gulf	461.23	722,101	1,565.60	18,832,154	3.83	19,143,045	3.77
Mpls. & Omaha	1,749.19	3,812,671	2,179.68	86,839,382	4.39	88,621.613	4.30
Illinois	945.13	2,721,469	2,879.47	79,731,781	3.41	82,025,664	3.32
ver City	456.31	2,438,054	5,342.98	30,383,133	8.02	31,409,748	7.76
& San Antonio	1,379.85	1,994,775	1,445.65	80,867,440	2.47	83,352,599	2.39
Santa Fe	1,907.74	4,192,458	2,197.60	62,509,421	6.71	56,208,858	6.43
Vest Texas	191.60	141.949	740.86	5,982,526	2.37	6,339,149	2.24
port	40.70	178,959	4,392.71	806,293	22.20	806,293	22.20
Central	923.17	2,022,081	2,190.37	45,320,076	4.46	46,089.175	4.39
	4,784.52	25,121,128	5,250.50	419,562,924	5.99	432,585,234	5.81
eat Northern	1,159.50	1,318,388	1,137.03	40,662,986	3.24	42,566,006	3.10
co & Orient	272.20	D 151,222	D 555.55	22,262,277	D	22,530,459	D
& Orient of Texas	465.75	D 323,671	D 694.95	6,900,454	D	6,987,888	D
ern	767.60	2,928,772	3,815.49	98,453,318	2.97	100,584,142	2.91
& Gulf (a)	314.45	526,254	1,673.57	18,185,265	2.89	18,358,765	2.87
av. Co.	343.67	88,637	257.91	22,270,698	.40	22,729,687	.39
av. Co. of Tex.			Not in Operation				
S. Marie	4,383.57	7,178,972	1,637.70	208,036,152	3.45	212,683,637	3.38
	1,649.90	883,800	535.67	65,315,868	1.35	66,483,530	1.33
& Texas (b)	1,999.57	9,114,553	4,558.26	197,485,046	4.62	201,711,047	4.52
Texas of Tex.	1,737.89	1,280,467	736.79	76,410.139	1.68	80,070,650	1.60
	7,261.78	8,247,035	1,135.68	388,039,609	2.13	397,507,056	2.07

Missouri, Kansas & Texas (b)	1,999.57	9,114,553	4,558.26	197,485,046	4.62	201,71
Missouri, Kans. & Texas of Tex.	1,737.89	1,280,467	736.79	76,410.139	1.68	80,07
Missouri Pacific	7,261.78	8,247,035	1,135.68	388,039,609	2.13	397,50
New Orleans, Texas & Mexico	191.22	1,344,567	7,031.52	18,211,441	7.38	18,69
Panhandle & Santa Fe	857.79	236,615	275.84	27,206,193	.87	28,25
Quincy, Omaha & Kansas City	252.72	D 168,319	D 666.03	6,403,466	D	6,40
St. Louis Southwestern	968.65	5,666,588	5,849.99	76,918,680	7.37	79,15
St. Louis Southwestern of Tex.	807.33	D 1,279.763	D 1,585.18	35,209,888	D	39,79
St. Louis–San Francisco	4,760.91	15,490,000	3,253.58	379,860,373	4.08	386,82
St. Louis–San Fran. & Texas	134.41	8,504	63.27	3,127,966	.27	3,47
St. Louis, Brownsville & Mexico	550.22	1,142,882	2,077.14	16,393,985	6.97	16,94
Southern Pacific–La. Lines (c)	608.41	867,756	1,426.27	40,690,111	2.13	42,45
San Antonio & Arkansas Pass	739.36	253,430	342.76	24,861,576	1.02	25,63
Texarkana & Ft. Smith	95.33	470,063	4,930.90	4,851,629	9.69	4,89
Texas & Pacific	1,952.74	3,629,472	1,858.66	127,767,726	2.84	132,36
Vicksburg, Shreveport & Pacific	171.44	368,823	2,151.32	9,909,708	3.72	10,28
Wabash	2,472.96	4,107,421	1,660.93	224,310,884	1.83	228,23

(a) Includes K. O. & G. of Texas.
(b) " W. F. & N. W.
(c) " M. L. & T. RR. & SS. Co.; La. Western.
D–Deficit.

sas & Texas (b)	1,999.57	9,114,553	4,558.26	197,485,046	4.62	201,711,047	4.52
s. & Texas of Tex.	1,737.89	1,280,467	736.79	76,410.139	1.68	80,070,650	1.60
ic	7,261.78	8,247,035	1,135.68	388,039,609	2.13	397,507,056	2.07
Texas & Mexico	191.22	1,344,567	7,031.52	18,211,441	7.38	18,690,219	7.19
Santa Fe	857.79	236,615	275.84	27,206,193	.87	28,254,854	.84
a & Kansas City	252.72	D 168,319	D 666.03	6,403,466	D	6,403,466	D
hwestern	968.65	5,666,588	5,849.99	76,918,680	7.37	79,153,902	7.16
hwestern of Tex.	807.33	D 1,279.763	D 1,585.18	35,209,888	D	39,797,576	D
Francisco	4,760.91	15,490,000	3,253.58	379,860,373	4.08	386,827,991	4.00
Fran. & Texas	134.41	8,504	63.27	3,127,966	.27	3,475,354	.24
wnsville & Mexico	550.22	1,142,882	2,077.14	16,393,985	6.97	16,942,056	6.75
ic–La. Lines (c)	608.41	867,756	1,426.27	40,690,111	2.13	42,453,722	2.04
Arkansas Pass	739.36	253,430	342.76	24,861,576	1.02	25,633,020	.99
Ft. Smith	95.33	470,063	4,930.90	4,851,629	9.69	4,897,729	9.60
c	1,952.74	3,629,472	1,858.66	127,767,726	2.84	132,365,796	2.74
eveport & Pacific	171.44	368,823	2,151.32	9,909,708	3.72	10,288,420	3.58
	2,472.96	4,107,421	1,660.93	224,310,884	1.83	228,236,211	1.80

udes K. O. & G. of Texas.
" W. F. & N. W.
" M. L. & T. RR. & SS. Co.; La. Western.
it.

I. C. C. Docket No. 15234

Statement of Property Investment and Net Income
Year Ended December 31, 1923

Railroad or system	Average miles operated	Net railway operating income	Net railway operating income per mile of road	Investment in road & equipment	Ratio %	r n
Atchison, Topeka & Santa Fe	8,956.97	$40,815.194	$4,556.81	$776,486,843	5.26	$8
Beaumont, Sour Lake & Western	118.75	362,274	3,050.73	3,379,409	10.72	
Chicago & Alton	1,050.40	5,319,568	5,064.33	149,244,904	3.56	1
Chicago & North Western	8,462.53	15,843,375	1,872.18	484,818,748	3.27	4
Chicago, Burlington & Quincy	9,401.41	25,365,567	2,698.06	564,276,870	4.50	5
Chicago Great Western	1,496.06	2,118,672	1,416.17	169,932,704	1.25	1
Chicago, Milwaukee & St. Paul	11,010.74	20,167,713	1,831.64	717,219,852	2.81	7
Chicago, Rock Island & Pacific	7,635.13	14,121,464	1,849.54	389,414,128	3.63	4
Chicago, Rock Island & Gulf	461 23	719,700	1,560.39	19,115,041	3.77	
Chicago, St. Paul, Mpls. & Omaha	1,749.19	3,028,915	1,731.61	87,508,451	3.46	
Chicago & Eastern Illinois	945.13	3,324,116	3,517.10	82,288,473	4.04	
Fort Worth & Denver City	456.31	2,877,039	6,305.01	30,418,296	9.46	
Galveston, Harr. & San Antonio	1,379.85	2,281,547	1,653.47	82,346,248	2.77	
Gulf, Colorado & Santa Fe	1,908.89	3,963,151	2,076.15	63,419,914	6.25	
Houston East & West Texas	191.60	111,350	581.16	6,601,207	1.69	
Houston & Shreveport	40.74	240,784	5,910.26	824,998	29.19	
Houston & Texas Central	923.17	2,069,211	2,241.42	45,745,755	4.52	
Illinois Central	4,840.25	22,906,244	4,732.45	470,441,576	4.87	4
International & Great Northern	1,159.50	2,176,504	1,877.11	42,221,673	5.15	
Kansas City, Mexico & Orient	272.20	50,510	185.56	22,314,908	.23	
Kansas City, Mex. & Orient of Tex	465.75	D 70,610	D 151.60	6,897,545	D	
Kansas City Southern	767.60	2,682,831	3,495.09	101,894,687	2.63	1
Kansas, Oklahoma & Gulf (a)	314.42	245,275	780.09	18,535,099	1.32	
Louisiana Ry. & Nav. Co.	344.00	129,678	376.97	22,544,351	.58	
Louisiana Ry. & Nav. Co. of Texas	206.00	40,534	196.77	3,044,501	1.33	
Mpls., St. Paul & S. S. Marie	4,396.49	8,204,096	1,866.06	212,863,879	3.85	2
Mpls. & St. Louis	1,649.90	825,341	500.24	65,066,442	1.27	
Missouri, Kansas & Texas (b)	1,883.01	7,553,654	4,011.48	197,976,021	3.82	2
Missouri, Kans. & Tex. of Texas	1,476.75	1,256,035	850.54	72,424,196	1.73	
Missouri Pacific	7,235.72	8,893,245	1,229.08	399,630,349	2.23	4

I. C. C. Docket No. 15234

Statement of Property Investment and Net Income
Year Ended December 31, 1923

oad or system	Average miles operated	Net railway operating income	Net railway operating income per mile of road	Investment in road & equipment	Ratio %	Invest. in rd. & equip. material & suppl. incl.	Ratio, %
& Santa Fe	8,956.97	$40,815.194	$4,556.81	$776,486,843	5.26	$803,037,390	5.08
ake & Western	118.75	362,274	3,050.73	3,379,409	10.72	3,379,409	10.72
	1,050.40	5,319,568	5,064.33	149,244,904	3.56	151,121,542	3.52
Western	8,462.53	15,843,375	1,872.18	484,818,748	3.27	499,666,026	3.17
n & Quincy	9,401.41	25,365,567	2,698.06	564,276,870	4.50	588,734,264	4.31
stern	1,496.06	2,118,672	1,416.17	169,932,704	1.25	171,605,179	1.23
ee & St. Paul	11,010.74	20,167,713	1,831.64	717,219,852	2.81	732,434,534	2.75
nd & Pacific	7,635.13	14,121,464	1,849.54	389,414,128	3.63	400,978,897	3.52
nd & Gulf	461 23	719,700	1,560.39	19,115,041	3.77	19,419,037	3.71
Mpls. & Omaha	1,749.19	3,028,915	1,731.61	87,508,451	3.46	89,759,324	3.37
Illinois	945.13	3,324,116	3,517.10	82,288,473	4.04	84,980,521	3.91
ver City	456.31	2,877,039	6,305.01	30,418,296	9.46	31,379,313	9.17
San Antonio	1,379.85	2,281,547	1,653.47	82,346,248	2.77	85,766,460	2.66
Santa Fe	1,908.89	3,963,151	2,076.15	63,419,914	6.25	66,739,928	5.94
est Texas	191.60	111,350	581.16	6,601,207	1.69	6,936,594	1.61
ort	40.74	240,784	5,910.26	824,998	29.19	831,091	28.97
Central	923.17	2,069,211	2,241.42	45,745,755	4.52	47,228,427	4.38
	4,840.25	22,906,244	4,732.45	470,441,576	4.87	491,654,105	4.66
eat Northern	1,159.50	2,176,504	1,877.11	42,221,673	5.15	44,581,590	4.88
co & Orient	272.20	50,510	185.56	22,314,908	.23	22,575,883	.22
& Orient of Tex	465.75	D 70,610	D 151.60	6,897,545	D	7,009,250	D
ern	767.60	2,682,831	3,495.09	101,894,687	2.63	104,180,118	2.58
& Gulf (a)	314.42	245,275	780.09	18,535,099	1.32	18,719,814	1.31
av. Co.	344.00	129,678	376.97	22,544,351	.58	23,027,531	.56
av. Co. of Texas	206.00	40,534	196.77	3,044,501	1.33	3,157,809	1.28
S. Marie	4,396.49	8,204,096	1,866.06	212,863,879	3.85	218,105,596	3.76
	1,649.90	825,341	500.24	65,066,442	1.27	66,715,557	1.24
Texas (b)	1,883.01	7,553,654	4,011.48	197,976,021	3.82	206,035,505	3.67
Tex. of Texas	1,476.75	1,256,035	850.54	72,424,196	1.73	72,424,196	1.73
	7,235.72	8,893,245	1,229.08	399,630,349	2.23	413,593,829	2.15

Missouri, Kansas & Texas (b)	1,883.01	7,553,654	4,011.48	197,976,021	3.82	206,0
Missouri, Kans. & Tex. of Texas	1,476.75	1,256,085	850.54	72,424,196	1.73	72,4
Missouri Pacific	7,235.72	8,893,245	1,229.08	399,630,349	2.23	413,5
New Orleans, Texas & Mexico	191.22	1,176,275	6,151.42	18,613,886	6.32	19,2
Panhandle & Santa Fe	858.37	1,258,046	1,465.62	27,587,915	4.56	28,2
Quincy, Omaha & Kansas City	250.84	D 180,299	D 718.78	6,499,366	D	6,4
St. Louis Southwestern	968.65	6,111,138	6,308.92	79,527,913	7.68	81,7
St. Louis S. West. of Texas	807.20	D 546,337	D 676.83	37,353,867	D	38,8
St. Louis-San Francisco	4,751.21	18,484,458	3,890.47	395,846,710	4.67	402,6
St. Louis-San Fran. & Tex.	134.41	36,800	273.79	3,223,356	1.14	3,6
St. Louis, Brownsville & Mexico	550.22	1,905,563	3,463.27	16,568,842	11.50	17,0
Southern Pacific-La. Lines (c)	608.41	1,166,289	1,916.95	41,585,762	2.80	43,0
San Antonio & Aransas Pass	739.36	849,287	1,148.68	25,432,422	3.34	26,3
Texarkana & Ft. Smith	95.33	854,269	8,961.18	4,906,527	17.41	4,9
Texas & Pacific	1,952.74	5,237,535	2,682.15	132,597,718	3.95	137,2
Vicksburg, Shrevesport & Pacific	184.19	690,832	3,750.65	10,103,160	6.84	10,3
Wabash	2,476.59	8,941,275	3,610.32	233,114,916	3.84	238,9

(a) Includes K. O. & G. of Texas.
(b) " W. F. & N. W.
(c) " M. L. & T. RR. & SS. Co. 1 La. West.
D–Deficit.

s & Texas (b)	1,883.01	7,553,654	4,011.48	197,976,021	3.82	206,035,505	3.67
& Tex. of Texas	1,476.75	1,256,035	850.54	72,424,196	1.73	72,424,196	1.73
	7,235.72	8,893,245	1,229.08	399,630,349	2.23	413,593,829	2.15
xas & Mexico	191.22	1,176,275	6,151.42	18,613,886	6.32	19,225,287	6.12
nta Fe	858.37	1,258,046	1,465.62	27,587,915	4.56	28,267,042	4.45
& Kansas City	250.84	D 180,299	D 718.78	6,499,366	D	6,499,366	D
vestern	968.65	6,111,138	6,308.92	79,527,913	7.68	81,792,927	7.47
t. of Texas	807.20	D 546,337	D 676.83	37,353,867	D	38,839,145	D
ancisco	4,751.21	18,484,458	3,890.47	395,846,710	4.67	402,629,916	4.59
an. & Tex.	134.41	36,800	273.79	3,223,356	1.14	3,621,310	1.02
sville & Mexico	550.22	1,905,563	3,463.27	16,568,842	11.50	17,041,732	11.18
-La. Lines (c)	608.41	1,166,289	1,916.95	41,585,762	2.80	43,611,806	2.56
ransas Pass	739.36	849,287	1,148.68	25,432,422	3.34	26,350,149	3.22
Smith	95.33	854,269	8,961.18	4,906,527	17.41	4,923,451	17.35
	1,952.74	5,237,535	2,682.15	132,597,718	3.95	137,279,548	3.82
esport & Pacific	184.19	690,832	3,750.65	10,103,160	6.84	10,521,235	6.57
	2,476.59	8,941,275	3,610.32	233,114,916	3.84	238,905,631	3.74

des K. O. & G. of Texas.
W. F. & N. W.
M. L. & T. RR. & SS. Co. 1 La. West.
it.

Year ended December 31, 1924

	Average miles operated	Net railway operating income	Net railway operating income per mile of road	Investment in road & equipment	Ratio %
Atchison, Topeka & Santa Fe	9,069.61	$38,348,299	$4,228.22	$827,628,763	4.63
Beaumont, Sour Lake & Western	118.75	410,144	3,453.84	3,469,826	11.82
Chicago & Alton	1,050.86	4,394,793	4,182.09	154,138,288	2.85
Chicago & North Western	8,462.83	16,784,051	1,983.27	493,582,386	3.40
Chicago, Burlington & Quincy	9,407.23	28,742,112	3,055.32	575,464,188	4.99
Chicago Great Western	1,496.06	2,234,046	1,493.29	170,931,517	1.31
Chicago, Milwaukee & St. Paul	10,986.92	18,972,106	1,726.79	720,663,283	2.63
Chicago, Rock Island & Pacific	7,611.46	16,191,390	2,127.27	392,665,629	4.12
Chicago, Rock Island & Gulf	461.23	1,522,199	4,300.31	19,413,522	7.84
Chicago, St. Paul, Mpls. & Omaha	1,749.13	3,408,989	1,948.90	88,111,012	3.87
Chicago & Eastern Illinois	945.00	1,467,259	1,552.66	86,501,040	1.70
Fort Worth & Denver City	456.64	3,832,662	8,393.18	30,784,481	12.45
Galveston, Harrisburg & San Ant	1,379.82	5,056,351	3,664.50	84,301,196	6.00
Gulf, Colorado & Santa Fe	1,908.88	6,241,010	3,269.46	63,806,553	9.78
Houston East & West Texas	191.60	133,549	697.02	7,486,182	1.78
Houston & Shreveport	40.74	81,222	1,993.67	1,139,661	7.13
Houston & Texas Central	929.11	2,521,887	2,714.30	47,001,914	5.37
Illinois Central	4,849.74	23,761,649	4,899.57	497,224,657	4.78
International & Great Northern	1,159.50	2,572,290	2,218.45	45,136,893	5.70
Kansas City, Mexico & Orient	272.20	D 26,517	D 97.42	22,254,305	D
Kansas City, Mex. & Orient of Tex	465.75	168,719	362.25	6,903,461	2.44
Kansas City Southern	773.01	3,021,319	3,908.51	103,177,385	2.93
Kansas, Oklahoma & Gulf (a)	314.42	32,291	102.70	18,821,086	.17
Louisiana Ry. & Nav. Co	337.00	D 255,291	D 757.54	22,897,031	D.
Louisiana Ry. & Nav. Co. of Tex	206.00	D 49,710	D 241.31	3,155,309	D
Minneapolis, St. Paul & S. S. Marie	4,402.53	6,776,158	1,539.15	216,251,642	3.13
Minneapolis & St. Louis	1,647.26	D 959,951	D 582.76	65,330,900	D
Missouri, Kansas & Texas	1,803.88	8,912,952	4,940.99	200,462,037	4.45
Missouri, Kans. & Tex. of Texas	1,389.26	3,674,546	2,644.97	73,475,120	5.00
Missouri Pacific	7,359.97	15,817,584	2,149.14	418,392,110	3.78

I. C. C. Docket No. 15234

nt of Property Investment and Net Income

				Six months ended June 30, 1925				
tment d & ment	Ratio %	Invest. in rd. & equip. material & suppl. incl.	Ratio, %	Average miles operated	Net railway operating income	Net railway operating income per mile of road	Ratio income to investment in rd. & eqp. %	Ratio income to invst. in rd. & equip., mtl. & suppl. incl., %
28,763	4.63	$851,472,516	4.50	9,184	$13,837,459	$1,506.69	1.67	1.63
69,826	11.82	3,469,826	11.82	119	245,427	2,066.75	7.07	7.07
38,288	2.85	155,856,284	2.82	1,055	1,593,471	1,510.40	1.03	1.02
82,386	3.40	507,523,474	3.31	8,462	6,951,641	821.51	1.41	1.37
64,188	4.99	593,990,071	4.84	9,396	9,519,473	1,013.14	1.65	1.60
31,517	1.31	172,121,988	1.30	1,496	229,930	153.70	.13	.13
63,283	2.63	734,238,571	2.58	11,024	3,142,656	280.49	.44	.43
65,629	4.12	403,736,660	4.01	7,578	4,950,522	653.28	1.26	1.23
13,522	7.84	19,895,471	7.65	461	364,263	790,17	1.88	1.83
11,012	3.87	90,350,290	3.77	1,749	1,055,844	603.68	1.20	1.17
01,040	1.70	88,842,434	1.65	945	307,409	325.30	.36	.35
84,481	12.45	31,604,890	12.13	491	1,266,490	2,579.41	4.11	4.01
01,196	6.00	87,281,614	5.79	1,621	1,220,530	752.95	1.45	1.40
0,553	9.78	66,742,603	9.35	1,908	944,762	495.16	1.48	1.42
90,182	1.78	7,801,789	1.71	191	112,911	591.16	1.51	1.45
39,661	7.13	1,139,661	7.13			Not available		
11,914	5.37	48,408,108	5.21	929	750,748	808.12	1.60	1.55
24,657	4.78	509,648,414	4.66	4,875	11,278,406	2,313.52	2.27	2.21
36,893	5.70	47,533,245	5.41	1,159	757,123	653.26	1.68	1.59
14,305	D	22,642,732	D	272	D 27,605	D 101.49	D	D
8,461	2.44	6,980,146	2.42	465	237,878	511.57	3.45	3.41
7,385	2.93	105,221,379	2.87	773	1,572,229	2,033.93	1.52	1.49
1,086	.17	19,022,235	.17	314	D 122,917	D 391.46	D	D
7,031	D.	23,360,802	D	337	D 22,858	67.83	D	D
5,309	D	3,252,667	D	206	D 87,287	423.72	D	D
1,642	3.13	221,142,005	3.06	4,402	2,116,791	480.87	.98	.96
0,900	D	67,204,870	D	1,638	D 507,879	D 310.06	D	D
2,037	4.45	206,815,112	4.31	1,799	4,841,247	2,691.08	2.42	2.34
5,120	5.00	73,475,120	5.00	1,389	783,601	564.15	1.07	1.07
2,110	3.78	430,399,345	3.68	7,337	7,251,688	988.37	1.73	1.68

Missouri, Kansas & Texas	1,803.88	8,912,952	4,940.99	200,462,037	4.45
Missouri, Kans. & Tex. of Texas	1,389.26	3,674,546	2,644.97	73,475,120	5.00
Missouri Pacific	7,359.97	15,817,584	2,149.14	418,392,110	3.78
New Orleans, Texas & Mexico	191.22	1,368,349	7,155.89	18,344,272	7.46
Panhandle & Santa Fe	858.49	2,693,970	3,138.03	29,032,647	9.28
Quincy, Omaha & Kansas City	250.84	D 168,246	D 670.73	6,461,201	D
St. Louis Southwestern	969.81	4,160,359	4,289.87	80,737,530	5.15
St. Louis So. West. of Texas	807.20	526,011	651.65	38,339,239	1.37
St. Louis-San Francisco	4,760.77	20,589,138	4,324.75	404,394,589	5.09
St. Louis-San Fran. & Tex.	137.95	221,809	1,607.89	3,256,348	6.81
St. Louis, Brownsville & Mex	550.22	2,177,108	3,956.80	16,940,227	12.85
Southern Pacific-La. Lines (b)	608.41	728,696	1,197.71	42,721,156	1.71
San Antonio & Arkansas Pass	739.36	752,236	1,017.42	26,327,477	2.86
Texarkana & Fort Smith	81.08	843,057	10,397.84	5,114,711	16.48
Texas & Pacific	1,952.74	5,801,611	2,971.01	136,684,234	4.24
Vicksburg, Shreveport & Pacific	188.46	480,047	2,547.21	10,959,254	4.38
Wabash	2,489.93	9,347,780	3,754.23	242,553,968	3.85

(a) Includes Kans. Okla. & Gulf of Tex. (b) Includes M. L. & T. RR. & SS. Co.; La. Western. D—Deficit.

462,037	4.45	206,815,112	4.31	1,799	4,841,247	2,691.08	2.42	2.34
475,120	5.00	73,475,120	5.00	1,389	783,601	564.15	1.07	1.07
392,110	3.78	430,399,345	3.68	7,337	7,251,688	988.37	1.73	1.68
344,272	7.46	19,317,404	7.08	191	827,983	4,330.00	4.51	4.29
032,647	9.28	29,833,585	9.03	858	602,724	702.48	2.08	2.02
461,201	D	6,461,201	D	250	D 137,800	D 551.20	D	D
737,530	5.15	83,016,825	5.01	945	1,830,279	1,936.80	2.27	2.20
339,239	1.37	39,657,785	1.33	807	D 21,232	D 26.31	D	D
394,589	5.09	409,052,437	5.03	4,902	9,868,732	2,013.21	2.44	2.41
256,348	6.81	3,528,591	6.29	137	88,227	643.99	2.72	2.50
940,227	12.85	17,455,103	12.47	550	1,137,596	2,067.53	6.72	6.52
721,156	1.71	44,497,611	1.64	607	D 162,263	D 2,673.19	D	D
327,477	2.86	27,357,474	2.75		Included in Southern Pacific System			
114,711	16.48	5,232,523	16.11			Not available		
684,234	4.24	140,757,184	4.12	1,952	1,975,925	1,012.26	1.45	1.40
959,254	4.38	11,458,714	4.19	188	216,643	1,152.36	1.98	1.89
553,968	3.85	246,750,455	3.79	2,524	4,357,738	1,726.52	1.80	1.77

D—Deficit.

I. C. C. Docket 15234

Net Railway Operating Income

Average of Test Period and Year 1924 Compared

Railroad or system	Average Miles operated	Average annual Net opr. Income test period	Net operating Income year 1924	Decrease	Increase
Atchison, Topeka & Santa Fe	9,069.61	$39,777,492	$38,348,299	$1,429,193	.....
Beaumont, Sour Lake & Western	118.75	D 49,963	410,144	.....	$460,107
Chicago & Alton	1,050.86	3,178,315	4,394,793	.....	1,216,478
Chicago & Northwestern	8,462.83	23,165,985	16,784,051	6,381,934	.....
Chicago, Burl. & Quincy	9,407.23	33,841,542	28,742,112	5,099,430	.....
Chicago Great Western	1,496.06	2,953,450	2,234,046	719,404	.....
Chicago, Milw. & St. Paul	10,986.92	27,053,059	18,972,106	8,080,953	.....
Chicago, Rock Island & Pacific	7,611.46	14,753,988	16,191,390	.....	1,437,402
Chicago, Rock Island & Gulf	461.23	956,418	1,522,199	.....	565,781
Chicago, St. P., Mpls. & Oma	1,749.19	4,931,623	3,408,989	1,522,634	.....
Chicago & Eastern Illinois	945.00	2,945,001	1,467,259	1,477,742	.....
Fort Worth & Denver City	456.64	1,921,482	3,832,662	.....	1,911,180
Galv. Harr. & San Antonio	1,379.82	3,235,226	5,056,351	.....	1,821,125
Gulf, Colo. & Santa Fe	1,908.88	2,959,904	6,241,010	.....	3,281,106
Houston, East & West Tex	191.60	377,909	133,549	244,360	.....
Houston & Shreveport	40.74	85,032	81,222	3,810	.....
Houston & Texas Central	929.11	1,713,566	2,521,887	.....	808,321
Illinois Central	4,849.74	16,310,621	23,761,649	.....	7,451,028
International & Great Northern	1,159.50	1,375,530	2,572,290	.....	1,196,760
Kansas City, Mex. & Orient	272.20	9,073	D 26,517	.....	133,129
Kansas City, Mex. & Orient of Tex	465.75		168,719	.....	
Kansas City Southern	773.01	3,002,509	3,021,319	.....	18,810
Kansas, Oklahoma & Gulf (a)	314.42	127,961	32,291	95,670	.....
Louisiana Ry. & Nav. Co	337.00	357,353	D 255,291	612,644	.....
Mpls., St. Paul & S. S. M.	4,402.53	10,578,977	6,776,158	3,802,819	.....
Mpls. & St. Louis	1,647.26	2,639,994	D 959,951	3,599,945	.....
Mo. Kans. & Texas	1,803.88	5,891,900	8,912,952	.....	3,021,052
Mo., Kans. & Texas of Tex	1,389.26	636,302	3,674,546	.....	3,038,244
Missouri Pacific	7,359.97	13,978,029	15,817,584	.....	1,839,555
New Orleans, Tex. & Mex	191.22	184,924	1,368,349	.....	1,183,425
Panhandle & Santa Fe	858.49	1,331,247	2,693,970	.....	1,362,723
Quincy, Omaha & Kans. City	250.84	87,559	D 168,246	705,805	.....

[illegible] Kans. & Texas	1,803.88	5,891,900	8,912,952	.....	3,021,052
Mo., Kans. & Texas of Tex	1,389.26	636,302	3,674,546	.....	3,038,244
Missouri Pacific	7,359.97	13,978,029	15,817,584	.....	1,839,555
New Orleans, Tex. & Mex	191.22	184,924	1,368,349	.....	1,183,425
Panhandle & Santa Fe	858.49	1,331,247	2,693,970	.....	1,362,723
Quincy, Omaha & Kans. City	250.84	37,559	D 168,246	205,805	.....
St. Louis Southwestern	969.81	3,309,791	4,160,359	.....	850,568
St. Louis S. W. of Texas	807.20	534,923	526,011	8,912	.....
St. Louis-San Francisco	4,760.77	13,897,260	20,589,138	.....	6,691,878
St. Louis-San Fran. & Tex	137.95	D 332,953	221,809	.....	554,762
St. Louis, Brownsv. & Mex	550.22	971,156	2,177,108	.....	1,205,952
Southern Pac.-La. Lines (b)	608.41	2,081,694	728,696	1,352,998	.....
San Antonio & Aransas Pass	739.36	357,479	752,236	.....	349,757
Texas & Pacific	1,952.74	3,723,435	5,801,611	.....	2,078,176
Texas & New Orleans	507.00	713,475	368,924	344,551	.....
Vicksburg, Shreveport & Pac	188.00	344,948	480,047	.....	135,099
Wabash	2,489.93	5,164,669	9,347,780	.....	4,183,111
Total	96,052.39	$251,027,885	$262,885,610	$34,982,804	$46,840,529

D—Deficit.
(a) Includes K. O. & G. of Texas.
(b) Includes M. L. & T. RR. & SS. Co., and Louisiana Western.

Statistics of Freight Traffic

Item	Group No.	1890	1900	1910	1923	1924
Tons Per Train	6	148	244	359	.....	.....
	8	148	186	263	.....	.....
	9	124	198	240	.....	.....
Ton Miles Per Mile of Line	6	376,403	586,524	906,385	1,380,326	1,272,387
	8	243,753	385,195	565,809	953,212	1,007,206
	9	245,732	363,278	420,831	743,923	851,444
Miles Haul Per Ton	6	155	144	141	.....	.....
	8	172	171	183	.....	.....
	9	224	173	132	.....	.....
Revenue per Ton per Mile (cents)	6	0.961	0.806	0.751	1.036	1.041
	8	1.152	0.964	0.971	1.287	1.253
	9	1.303	0.946	1.056	1.396	1.350
Revenue per Ton	6	$1.49	$1.16	$1.06	.....	.....
	8	1.98	1.65	1.78	.....	.....
	9	2.92	1.64	1.38	.....	.....
Freight Revenue per Mile of Road	6	$3,627	$4,835	$6,781	$14,300	$13,241
	8	2,808	3,399	5,452	12,268	12,618
	9	3,202	3,489	4,432	10,455	11,497

Territory	Avg. miles operated	Freight revenue	No. Tons one mile	Tons 1 mile per mile of line	Revenue per ton per mile	Freight Rev. per mile of road
Group 6:						
Illinois	8,714.58	$209,793,074	22,142,730,040	2,540,883	0.947c	.....
Wisconsin	7,159.90	88,789,323	7,931,591,171	1,107,780	1.119	.....
Iowa	10,088.51	105,112,772	9,813,304,431	972,721	1.071	.....
Minnesota	8,501.93	122,111,991	10,893,520,207	1,281,300	1.121	.....
No. Dakota	5,143.99	35,278,854	3,340,631,507	649,424	1.056	.....
So. Dakota	4,226.94	19,358,479	1,654,382,636	391,390	1.170	.....
	43,835.85	580,444,493	55,776,159,992	1,272,387	1.041	$13,241
Group 8:						
Colorado	3,877.33	39,434,493	2,690,471,023	693,898	1.466	.....
Kansas	9,311.65	111,271,580	8,793,064,406	944,308	1.265	.....
Missouri	7,745.20	119,225,467	10,258,013,560	1,324,435	1.162	.....
Oklahoma	6,233.17	71,647,599	5,466,771,016	877,045	1.311	.....
Arkansas	4,294.08	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

Colorado	3,877.33	39,434,493	2,690,471,023	693,898	1.466	.....
Kansas	9,311.65	111,271,580	8,793,064,406	944,308	1.265	.....
Missouri	7,745.20	119,225,467	10,258,013,560	1,324,435	1.162	.....
Oklahoma	6,233.17	71,647,599	5,466,771,016	877,045	1.311	.....
Arkansas	4,294.06	55,391,759	4,479,790,911	1,043,253	1.236	.....
	31,461.41	396,970,898	31,688,110,916	1,007,206	1.253	$12,618
Group 9:						
Louisiana	3,681.02	41,535,873	3,360,983,798	913,058	1.236	.....
Texas	14,538.32	165,418,139	11,806,290,758	912,081	1.041	.....
New Mexico	2,787.19	34,550,508	2,718,606,136	975,393	1.271	.....
	21,006.53	241,504,520	17,885,880,692	851,444	1.350	$11,497

Figures for 1890, 1900 and 1910 are taken from Annual Report of the Interstate Commerce Commission.
Figures for 1924 are computed as per details shown on this sheet.

[fol. 262] By "lines interested" I mean respondents. Pages 1 and 2 are made up from figures furnished by the different companies to Mr. L. E. Wettling of the Western Statistical Bureau. Each of the companies reported to him giving him the information which they had reported to the several states, and I compiled this statement for these specific lines from the information furnished to him for both the years 1923 and 1924, which gives the traffic density of each line in each different state traversed by them (Tr. 4337).

Pages 3, 4, and 5 of exhibit A-50 are a statement of the property investment and net income with the ratio of return for the years 1922, 1923 and 1924, and six months ended June 30, 1925. These are taken from the interstate Commerce reports, so far as the Commission has published them, and it is taken from the information reported to the Commission by the different carriers for the years 1924 and 1925, in every case agreeing with the record and statistics of the Interstate Commerce Commission—except that the ratios are my own computation based on the figures referred to (Tr. 4337-4338).

At the bottom of page 1, the total for all class I roads refers to the total for all the class I roads, and in the upper peninsula in the first column, and in each state. The figures for the upper peninsula of Michigan were arrived at in this manner:

The Chicago & North Western, the Milwaukee and the Soo line operate in no other part of Michigan except the for the State of Missouri had been split, and Attorney for that state (Tr. 4338).

Whereupon Attorney Muckley inquired how the figures for the State of Missouri had been split, and Attorney Towner replied that the witness had not segregated the [fol. 263] figures as to Western Trunk line and the Southwest (Tr. 4339).

The Witness, continuing: The exhibit shows the total for all class I roads, that means the total for all lines named in each one of these states, that is of all class I lines (Tr. 4339).

Page 6 of exhibit A-50 shows for each of the lines named the average mileage operated and the average annual net

operating income of the test period, being the three years ended June 30, 1917, which was used by the companies in determining the compensation to be paid to these lines during the period of Federal control. In the next column we have shown opposite that for each line the net operating income for the year 1924. These figures are reported to the Commission. In the two columns to the right the increase or decrease of the net operating income for the year 1924, as compared with the test period, is shown. The increases or decreases are my own computation (Tr. 4339-4340).

Page 7 of exhibit A-50 shows the statistics of freight traffic for the years 1890, 1900 and 1910, 1923 and 1924. The figures to and including 1910 are published in the Interstate Commerce Commission's statistics. The figures for 1923 were computed by me and are shown in the previous exhibit in this case, and the figures for 1924 are shown in the lower field on page No. 7 showing the manner in which I have computed this information for group No. 6, group No. 8 and group No. 9. These groups are shown in my former exhibit, and also in this exhibit in the lower block (Tr. [fol. 264] 4340). I made a little map showing each group and the territory included in each group in that former exhibit.

By Mr. Muckley:

Q. But not in this case.

By Mr. Towner:

Q. The groups as you have shown them in the upper block on page No. 7 include the states that you have shown in the lower block on the same page, do they not, Mr. Balch?

A. Practically, yes. Just a moment, please. Group No. 6, for instance, is the group which was used by the Interstate Commerce Commission in setting their statistics for a long period of time, in fact, up until about 1910, I believe was the last year, but all the general statistics of the Commission were stated in groups, and group No. 6 included these states, Illinois, Wisconsin, Iowa, Minnesota, North Dakota and South Dakota.

Now, group No. 8 took in Colorado, Kansas, Missouri, Oklahoma, and Arkansas, and group 7 takes in Louisiana, Texas and New Mexico.

Q. And those were groups established by the Commission and maintained by them in securing statistics, as you say, up until 1910?

A. Yes, sir (Tr. 4340-4341).

The groups do not conform exactly to these state lines, but approximately so. On the west the Rocky Mountains divide the groups, and there is a little piece of one state that overlooks into another group, but they are in territories that are not of any importance, so that we made a fair comparison by making up these group statistics in this way. We made a fair comparison for the year 1924 with similar information for the years 1910 and 1900 and 1890. I was endeavoring to get the nearest information on present records which is comparable with the statistics which they set up in their records for those previous years. The computations for the years 1923 and 1924 are mine (Tr. 4341-4342).

[fol. 265] Cross-examination:

The divisions as shown on exhibit A-41 for instance, via Kansas City, include the revenue north of Kansas City whether handled by the Chicago North Western or some other line intermediate. The revenue north of Kansas City is shown in the exhibit. Same is true as to St. Louis. In the case of Omaha and Council Bluffs, there is included only the revenue east or north of Council Bluffs or Omaha, that is the North Western traffic. I do not think a great part of the Omaha traffic would come through Kansas City (4343). It is possible that a portion of the Omaha traffic would come through Kansas City when handled via the Missouri Pacific or the Burlington to Omaha, and to that extent, wherever those cases occur, the additional revenue and mileage performed in Western Trunk Line territory by the Western Trunk lines are not included in exhibit A-41. I understand, however, that the divisions break on Council Bluffs, no matter what company handles it south thereof (Tr. 4342-4343).

In this exhibit I have included in the case of Council Bluffs the revenue north and east of Council Bluffs only (Tr. 4344).

Page 2 of the exhibit should be corrected to show Texarkana and Fort Smith Railway instead of Texas and Fort Smith (Tr. 4345).

We have undertaken to show the information in exhibits A-41 to A-49 inclusive without any duplications. In the case of the North Western and the Chicago, St. Paul, Minneapolis & Omaha, we compared notes very carefully to see that it was not duplicated. The destination or origin carrier reported the traffic and the intermediate line did not show it (Tr. 4345).

The statements do not include any traffic in Western Trunk Line territory for the Chicago, Burlington & Quincy, the Rock Island lines, or the Santa Fe lines. In the case of a shipment moving from Texas to Kansas City via Santa Fe or Rock Island, Kansas City to Des Moines, and then Des Moines to destination via the Chicago and North West-[fol. 266] ern, the proportion north of Kansas City would be included in the exhibits because that is taken up by the North Western, and the revenue to Kansas City has been shown. In the case of a shipment handled from Oklahoma or Texas to Iowa destinations, and handled from point of origin to Des Moines via the Rock Island, and from Des Moines to interior Iowa destination by the Chicago and North Western, we computed the regular divisions to Kansas City. The exhibit includes the revenue and tons and earnings north of Kansas City (Tr. 4346-4347-4348).

The exhibit does not include any commodities that terminated on the lines of the Rock Island or the Chicago, Burlington & Quincy or the Santa Fe (in Western Trunk Line territory) (Tr. 4348).

In the case where traffic is handled from one of the southwestern division junctions by the Chicago & North Western or any other Western Trunk line in this case, and thereafter handled to the Santa Fe, Burlington or Rock Island, and handled by that line to final destination, either to Western Trunk line or beyond, the tonnage, earnings and mileage on such a shipment is not shown in these exhibits. If the traffic were delivered to the Chicago Great Western at Kansas City, and thereafter delivered by that line to the Rock

Island line to be handled to destination, the revenue and earnings of the Great Western would not be in the exhibit (Tr. 4348-4349).

Referring to page 5 of exhibit A-41, and also to page 6 which gives the detail, if the car of lumber shown as moving from De Queen, Arkansas, via the Kansas City Southern to Kansas City and finding destination on the North Western, the shipment might be handled from Kansas City [fol. 267] via any line connecting with the North Western, the revenue shown is not the revenue of the North Western but the revenue of the complete lines of carriers north of Kansas City (Tr. 4349-4350).

Referring to page 7 of exhibit A-50 and groups 6, 8, and 9 shown thereon, the Interstate Commerce Commission, after the year 1910, abandoned the grouping, and thereafter used the group system on all the particular lines and systems. I would not certify to the reasons why they did that (Tr. 4351); and all the reports made by the North Western railroad to the Commission showing the divisions by groups was very carefully made, and it was accurate so far as any of these figures are absolutely accurate. I did not say that the method which was abandoned was impractical. They considered it practical for 30 years—23 years. It became more difficult to do it, and to make separations, and I think the carriers rather objected to making the separations. Our North Western line dropped into groups 6 and 7 very readily, but a good many of the lines did not, and it was very difficult to divide them. It became more and more so as the traffic in the West developed, and it became a greater burden each year. They abandoned it for some reason that I could not state, but I have never heard any expression from the Commission that the grouping was not practical (Tr. 4352). I do not know that the method was generally understood to be impracticable by statisticians at that time. I do not know that it did not actually produce very accurate results (Tr. 4352-4353).

I cannot say whether the same methods were used in the upper bracket on page 7 in the computations for the years 1923 and 1924 as were used by the Commission in its groups for 1890, 1900, and 1910. I have given the complete detail that I used in making my groups. I followed practically the same method in getting up the figures for 1923 and 1924,

with respect to the subdivision of groups, as the Commis-
[fol. 268] sion followed for the period 1890 to 1910. The figures for 1923 and 1924 were made up from reports to the different states. The figures previous to that year were not necessarily made up from that source. They were made up from reports direct to the Commission, but we presumed that they were the same. Now whether all of these states had all of these reports for all of these years I do not know. My judgment would be that the figures for the years 1923 and 1924 are just as reliable as the figures for the previous year, and possibly more exact. I do not know what practices all of the roads had in these southwestern states (Tr. 4353-4354).

So far as the formulas are available in reports, the formulas and methods of computing these figures are the same.

[fol. 269] The figures for 1924 in the upper block showing tons per mile of line in group 6 are the figures for the states shown in the lower blocks as being in group 6 and as reported to the individual states. That figure is a computation made by me of the tons per mile of line of the roads in group 6 as designated in the lower block of the sheet. Group 6 for the year 1890, 1900 and 1910 included those states and the reports were made to the Commission by groups. There is included in group 6 the states of North and South Dakota (Tr. 4354-4355)

There followed a discussion as to why the Texas & New Orleans road was included on some pages of the exhibit and not on others. The witness said that this carrier was supposed to have a net income of one million dollars, and the only reason that he could account for its omission is that the figures had not been obtained, that there was no intention of leaving out any line concerned (Tr. 4357).

The Witness, continuing: It is my understanding that the mileage as shown on exhibit A-41 and similar exhibits is the actual mileage that the shipments moved. We had no means of getting short line mileages from our records and the general mileages from the Railroad Guide were used.

We figured the mileage to the junctions that the shipments actually moved (Tr. 4358).

Attorney Towner thereupon stated that where a mileage pro-rate was shown, it was computed on the actual mileage that the individual shipment moved.

Mr. Outlaw: Well, I will accept your statement, then. I just wanted a definite statement in the record (Tr. 4358-4359).

Attorney Towner then said that the figures had been gotten up before question was raised as to such junctions as New Orleans, Baton Rouge, and Vicksburg, and for that [fol. 270] reason, those points were included, and that there was nothing in the exhibit that would operate to change his conclusions with respect to the elimination of those points as it afterwards developed (Tr. 4359).

B. F. Parsons was thereupon recalled as a witness for the Western Trunk Lines and testified as follows:

I testified at the hearing last month in this case. At the previous hearing on October 15th I introduced exhibits A-39, showing traffic density and certain averages by states. At that time I explained the source of the data included in this exhibit and stated that it was supplied by the auditors of the several railroads to Mr. L. E. Wettling, manager Western Lines Statistical Bureau.

In the rate structure investigation and revenues in western district the latter Ex Parte 87, the Commission, on August 18, 1925, issued a notice in which, among other things, they called upon the western railroads to furnish their mileage, revenue and expenses, segregated by states. This was done and the data for the year 1924 introduced by Mr. Wettling as his exhibit No. 50. That exhibit reproduces the statements supplied to him by each of the western railways. I have checked this data as shown in Mr. Wettling's exhibit with the information from which my exhibit A-39 was compiled and find that the figures I have used for the year 1924 in every case are identically the same figures that have been submitted by Mr. Wettling as witness for the western carriers in Ex Parte 87.

The figures were furnished in Ex Parte 87 by the respondent lines in response to a request from the Commission itself (Tr. 4360-4361).

[fol. 271] In connection with exhibit A-39, question was raised about the inclusion of the state of Kansas. I have reworked the figures for the southwestern group, omitting the state of Kansas.

On page 2, exhibit A-39, showing the data for the year 1924, the southwestern group, exclusive of the State of Kansas, included 33,016.25 miles of railroad. The tons carried one mile by the railroads in the group are found to be 30,000,303,506; the freight revenue $396,007,682; the ton mile per mile of road, 908,653; the revenue per ton mile, 1.32 cents; the freight revenue per mile of road, $11,994 (Tr. 4631-4632),

The effect upon the averages of excluding the State of Kansas was to reduce the traffic density or ton miles per mile of road from 916,496 to 908,853, but increasing the revenue per ton mile from 1.308 cents to 1.320 cents, and to increase the revenue per mile of road,—that is, the freight revenue, from $11,985 to $11,994.

On page 3 of the exhibit, for the year 1923 the average ton miles per mile of road, excluding Kansas, are 822,091; the revenue per ton mile, 13.51 mills, and the freight revenue per mile of road, $11,110.

On page 4, exhibit A-39, for the year 1922 the ton miles per mile of road, excluding Kansas, from the southwestern group are 712,444; the revenue per ton mile, 14.41 mills, and the freight revenue per mile of road, $10,265 (Tr. 4362-4363).

Exhibit A-51 is a statement of operating and traffic statistics and averages for the year ended December 31, 1924, of respondent carriers in Western Trunk Line territory and Southwestern territory (Tr. 4363).

Exhibit A-51 was received in evidence, which said exhibit, omitting title page, is in words and figures as follows:

(Here follows Exhibit No. A-51, side folios 272, 273, 274, 275, and 276)

EXHIBIT No. A-51

Witness: Parsons

(Title page omitted)

Page 2

1924

I. C. C. Docket 15234

Railway Operating Revenues a
Year ended December 31,

Railroad	Average miles operated	Railway operating revenue	Railway Operating Expenses			
			M. of W. and S.	M. of E.	Transportation expenses	Other expenses
Chicago & Alton	1 050.86	$30 854 030	$4 169 311	$7 011 157	$11 325 216	$1 387 785
C. & E. I.	945.13	26 068 788	2 604 958	7 827 155	10 408 218	1 612 925
C. & N. W.	8 462.83	149 454 584	22 559 053	30 581 466	60 501 486	6 894 640
C. B. & Q.	9 407.23	162 674 878	19 413 917	34 786 170	57 810 257	7 948 390
C. G. W.	1 496.06	24 726 678	3 682 233	4 726 280	10 228 278	1 601 620
C. M. & St. P.	10 966.92	158 366 459	22 449 379	34 120 037	61 880 508	7 100 137
C. St. P. M. & O.	1 749.19	27 915 736	3 717 699	5 074 994	12 037 511	1 359 620
Illinois Central	4 849.74	151 711 549	20 304 135	35 568 656	55 441 751	6 530 190
M. & St. L.	1 647.26	15 097 126	3 041 869	3 854 374	6 777 152	873 597
M. St. P. & S. S. M.	4 402.53	47 945 360	6 881 582	8 647 423	18 969 690	2 315 160
Q. O. & K. C.	250.84	1 051 805	372 398	187 041	522 416	42 677
Wabash	2 489.93	65 780 929	9 913 565	11 579 913	24 973 374	3 831 565
A. T. & S. F.	9 069.61	194 174 238	29 869 509	43 975 231	60 647 874	6 649 258
B. S. L. & W.	118.75	2 757 926	396 638	316 697	795 772	192 662
C. R. I. & G.	461.23	6 693 417	882 555	811 597	2 550 687	397 215
C. R. I. & P.	7 611.46	124 187 094	14 204 034	27 125 483	49 230 474	6 004 501
Ft. W. & D. C.	456.64	11 170 306	948 856	2 031 895	3 075 086	643 520
G. H. & S. A.	1 379.60	26 354 595	4 147 157	4 771 042	8 926 516	1 760 920
G. C. & S. F.	1 908.88	30 125 126	5 451 013	6 274 471	8 816 029	1 281 113
H. & S.	40.74	811 636	214 771	132 362	266 223	27 408
H. & T. C.	929.11	15 627 314	2 995 942	2 715 644	5 083 456	827 402
H. E. & W. T.	191.60	3 201 870	869 526	678 357	1 123 490	137 530
I. G. N.	1 159.50	16 901 448	2 988 936	2 999 926	6 112 184	854 194
K. C. M. & O.	272.20	2 362 112	425 838	564 731	963 399	141 109
K. C. M. & O. of Tex.	465.75	2 666 527	545 593	563 671	957 490	148 885
C. S.	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

EXHIBIT No. A-51

Witness: Parsons

(Title page omitted)

Page 2

1924

I. C. C. Docket 15234

ilway Operating Revenues and Expenses
Year ended December 31, 1924

Operating Expenses

Transportation expenses	Other expenses	Total	Net operating revenue	Operating ratio	Railway Tax accruals	Uncollectible railway revenue	Railway operating income	Ratio (a)
1 325 216	$1 387 785	$23 895 469	$6 960 561	77.44%	$1 243 085	$4 822	$5 712 654	81.48%
0 408 218	1 612 925	22 453 256	3 615 532	86.13	1 445 000	14 615	2 155 917	91.73
0 501 486	6 894 640	120 536 645	28 917 939	80.65	9 348 842	63 521	19 505 576	86.95
7 810 257	7 948 390	119 958 734	42 716 144	73.74	10 642 576	75 474	31 998 094	80.33
0 228 278	1 601 620	20 238 411	4 488 267	81.84	945 933	3 854	3 538 480	85.69
880 508	7 100 137	125 550 061	32 816 398	79.28	9 014 061	127 830	23 674 507	85.05
1 037 511	1 359 620	22 189 824	5 725 912	79.49	1 615 940	13 072	4 096 900	85.32
441 751	6 530 190	117 844 732	33 866 817	77.68	11 336 699	52 601	22 477 517	85.18
777 152	873 597	14 546 992	550 134	96.36	726 965	18 067	d 194 898	101.29
1 969 690	2 315 160	36 813 855	11 131 505	76.78	3 082 722	16 629	8 032 154	83.25
522 416	42 677	1 124 532	d 72 727	106.91	55 203	75	d 128 005	112.17
2 973 374	3 831 565	50 928 417	15 482 512	76.46	3 036 367	14 182	12 431 963	81.10
647 874	6 649 258	141 141 872	53 032 366	72.69	16 146 590	52 256	36 833 520	81.03
795 772	192 662	1 701 769	1 056 157	61.70	80 908	681	974 568	64.66
550 687	397 215	4 642 054	2 051 363	69.35	153 828	759	1 896 776	71.66
230 474	6 004 501	96 564 492	27 622 602	77.76	6 417 259	55 963	21 149 380	82.97
075 086	643 520	6 699 357	4 470 949	59.97	627 852	4 969	3 838 128	65.64
926 516	1 760 920	19 605 635	6 748 960	74.39	862 957	25 280	5 860 723	77.77
816 029	1 281 113	21 822 626	8 302 500	72.44	1 046 423	10 696	7 245 381	75.95
266 223	27 408	640 764	170 872	78.95	34 218	125	136 529	83.18
083 456	827 402	11 622 444	4 004 870	74.37	749 280	13 424	3 242 166	79.25
123 490	137 530	2 808 903	392 967	87.73	95 206	1 978	295 783	90.76
112 184	854 104	12 955 240	3 946 208	76.65	555 087	3 246	3 387 875	79.96
963 399	141 109	2 095 077	267 035	88.70	30 913	514	235 608	90.03
957 490	148 885	2 215 639	450 888	83.09	68 887	68	381 933	85.68

I. G. N.	1 159.50	16 901 448	2 988 936	2 999 926	6 112 184	854 194
K. C. M. & O.	272.20	2 362 112	425 838	564 731	963 399	141 109
K. C. M. & O. of Tex.	465.75	2 666 527	545 593	563 671	957 490	148 885
K. C. S.	773.01	18 131 751	2 667 890	3 588 900	6 017 861	1 421 910
K. O. & G.	314.42	2 184 589	527 901	346 086	824 389	225 910
K. O. & G. of Tex.	9.10	173 001	19 435	24 157	53 218	20 452
L. R. & N. Co.	338.63	4 144 231	1 094 946	701 967	1 667 087	244 421
L. R. & N. Co. of Tex.	206.08	1 345 481	245 960	184 143	599 467	99 019
La. Western	207.74	4 197 086	539 027	808 281	1 239 147	410 119
M. K. T.	1 803.88	34 488 364	4 411 486	7 789 675	9 278 817	1 876 489
M. K. T. of Tex.	1 389.26	22 820 981	3 151 652	3 727 799	8 084 957	1 411 159
Mo. Pac.	7 359.97	123 647 723	18 916 235	25 842 403	46 725 525	6 981 202
M. L. & T.	400.67	8 452 982	1 575 492	1 917 606	3 424 976	677 948
N. O. T. & M.	191.22	3 387 737	696 723	619 259	810 136	235 890
P. H. & S. F.	858.49	11 111 588	1 392 562	2 531 154	3 135 139	291 455
St. L. B. & M.	550.22	7 841 144	1 295 330	924 000	1 887 280	450 078
St. L. S. F.	4 760.77	85 989 817	10 985 648	17 272 882	29 021 464	3 291 839
St. L. S. F. & Tex.	137.95	2 033 807	302 906	332 043	723 899	139 257
St. L. S. W.	969.81	18 245 055	2 394 804	3 825 865	4 621 012	1 471 062
St. L. S. W. of Tex.	807.20	8 081 236	1 838 179	2 052 228	3 149 490	675 273
S. A. & A. P.	739.36	7 424 448	1 628 320	1 575 031	2 689 282	382 274
T. & Ft. S.	81.08	2 892 262	304 865	269 594	776 465	209 044
Texas & N. O.	507.95	9 282 765	2 029 786	2 237 044	3 479 443	353 265
Texas & Pacific	1 952.74	33 784 580	4 841 083	6 471 081	11 589 114	2 341 046
V. S. & P.	188.46	4 259 264	815 044	655 230	1 508 385	348 815

d—Deficit.

(a)—Ratio of the sum of Railway Operating Expenses, Railway Tax Accruals and Uncollectible Railway Revenue to Railway Op

6 112 184	854 194	12 955 240	3 946 208	76.65	555 087	3 246	3 387 875	79.96
963 399	141 109	2 095 077	267 035	88.70	30 913	514	235 608	90.03
957 490	148 885	2 215 639	450 888	83.09	68 887	68	381 933	85.68
6 017 861	1 421 910	13 696 561	4 435 190	75.54	1 092 246	4 045	3 338 899	81.59
824 389	225 910	1 924 286	260 303	88.08	122 290	7 332	130 681	94.02
53 218	20 452	117 262	55 739	67.78	2 750	.....	52 989	69.37
1 667 087	244 421	3 708 421	435 810	89.48	247 986	750	187 074	95.49
599 467	99 019	1 128 589	216 892	83.88	66 548	24	150 320	81.40
1 239 147	410 119	2 996 574	1 200 512	71.40	367 764	1 375	831 373	80.19
9 278 817	1 876 489	23 356 467	11 131 897	67.72	2 607 543	16 870	8 507 484	75.33
8 084 957	1 411 159	16 375 567	6 445 414	71.76	608 144	14 534	5 822 736	74.49
46 725 525	6 981 202	98 466 365	25 181 358	79.63	4 690 480	45 414	20 445 464	83.46
3 424 976	677 948	7 596 022	856 960	89.86	602 918	12 320	241 722	97.14
810 136	235 890	2 362 008	1 025 729	69.72	257 784	2 509	765 436	77.41
3 135 139	291 455	7 350 310	3 761 278	66.15	537 948	3 133	3 220 197	71.02
1 887 280	450 078	4 556 688	3 284 456	58.11	371 261	1 851	2 911 344	62.87
29 021 464	3 291 839	60 571 833	25 417 984	70.44	4 496 940	56 601	20 864 443	75.74
723 899	139 257	1 498 105	535 702	73.66	28 018	3 022	504 662	75.19
4 621 012	1 471 062	12 312 743	5 932 312	67.49	926 743	1 676	5 003 893	72.57
3 149 490	675 273	7 715 170	366 066	95.47	321 271	3 285	41 510	99.49
2 689 282	382 274	6 274 907	1 149 541	84.52	196 002	7 045	946 494	87.25
776 465	209 044	1 559 968	1 332 294	53.94	188 565	1 247	1 142 482	60.50
3 479 443	353 265	8 099 538	1 183 227	87.25	351 119	4 218	827 890	91.08
11 589 114	2 341 046	25 242 324	8 542 256	74.72	1 837 500	39 196	6 665 560	80.27
1 508 385	348 815	3 327 474	931 790	78.12	278 795	1 058	651 937	84.69

ailway Revenue to Railway Operating Revenue.

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Freight Revenues and Expenses

Year Ended December 31, 1924

Railroad	Freight revenue (account 101)	Total revenue assignable to freight service	Operating expenses assignable to freight service				
			M. of W. and S.	M. of E.	Transportation	Other expenses	Tota
Chicago & Alton	$21 675 681	$22 181 064	$3 078 236	$5 306 339	$8 342 191	$588 662	$17 315
C. & E. I.	19 381 436	19 690 729	1 957 509	6 187 116	7 970 738	1 040 613	17 155
C. & N. W.	103 516 754	107 114 420	15 519 478	23 286 134	42 401 670	4 000 715	85 207
C. B. & Q.	119 773 873	123 252 721	14 519 248	26 922 505	42 809 018	3 984 996	88 235
C. G. W.	18 764 368	19 142 862	2 739 092	3 491 625	7 701 678	987 544	14 919
C. M. & St. P.	120 070 603	123 953 456	16 836 510	24 917 399	45 490 363	3 984 541	91 228
C. St. P. M. & O.	20 019 002	20 337 617	2 701 257	3 931 016	9 031 336	832 277	16 495
Illinois Central	115 048 063	117 429 687	14 832 348	27 533 328	41 586 194	3 575 670	87 527
M. & St. L.	12 834 316	13 041 803	2 484 251	3 131 087	5 442 111	729 879	11 787
M. St. P. & S. S. M.	37 349 105	37 725 126	5 220 797	6 669 478	14 347 190	1 433 202	27 670
Q. O. & K. C.	702 609	708 565	249 292	126 916	319 133	27 538	722
Wabash	51 546 110	52 897 558	7 750 217	8 931 608	19 911 600	2 418 985	39 112
A. T. & S. F.	134 628 629	136 581 841	20 240 019	33 434 757	41 009 986	3 371 584	98 056
B. S. L. & W.	2 272 236	2 294 285	290 399	242 350	561 530	135 256	1 229
C. R. I. & G.	5 264 234	5 372 910	635 082	663 103	1 905 413	251 526	3 455
C. R. I. & P.	89 921 497	91 237 062	9 847 489	20 051 803	35 474 320	3 119 632	68 493
Ft. W. & D. C.	8 280 360	8 382 080	716 990	1 596 243	2 338 225	419 489	5 070
G. H. & S. A.	19 842 472	20 109 913	3 235 343	3 624 560	6 935 195	881 110	14 676
G. C. & S. F.	24 453 327	24 720 475	4 168 642	5 301 206	6 725 822	863 607	17 059
H. & S.	672 525	672 525	f 177 959	f 109 675	f 220 593	f 22 710	f 530
H. & T. C.	11 492 829	11 688 757	2 124 297	2 072 966	3 786 928	471 098	8 455
H. E. & W. T.	2 508 759	2 543 567	689 389	506 500	923 725	95 526	2 215
I. G. N.	12 673 345	13 258 906	2 172 968	2 170 088	4 618 642	453 379	9 415
K. C. M. & O.	2 165 415	2 185 726	374 988	460 530	842 047	131 529	1 809
K. C. M. & O. of Tex.	2 420 900	2 436 591	483 235	484 598	843 894	137 751	1 949
K. C. S.	14 443 792	15 289 425	2 128 793	2 918 692	4 750 502	1 146 144	10 944
K. O. & G.	1 994 665	2 009 400	445 771	290 333	687 373	205 730	1 629
K. O. & G. of Tex.	167 851	167 851	f 18 856	f 23 437	f 51 632	f 10 848	f 11

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Freight Revenues and Expenses

Year Ended December 31, 1924

Total revenue assignable to freight service	Operating expenses assignable to freight service					Net freight revenue	Net revenue assignable to freight service	Operating ratio
	M. of W. and S.	M. of E.	Transportation	Other expenses	Total			
181 064	$3 078 236	$5 306 339	$8 342 191	$588 662	$17 315 428	$4 360 253	$4 865 636	78.06%
690 729	1 957 509	6 187 116	7 970 738	1 040 613	17 155 976	2 225 460	2 534 753	87.13
114 420	15 519 478	23 286 134	42 401 670	4 000 715	85 207 997	18 308 757	21 906 423	79.55
252 721	14 519 248	26 922 505	42 809 018	3 984 996	88 235 767	31 538 106	35 016 954	71.59
142 862	2 739 092	3 491 625	7 701 678	987 544	14 919 939	3 844 429	4 222 923	77.94
953 456	16 836 510	24 917 399	45 490 363	3 984 541	91 228 813	28 841 790	32 724 643	73.60
337 617	2 701 257	3 931 016	9 031 336	832 277	16 495 886	3 523 116	3 841 731	81.11
429 687	14 832 348	27 533 328	41 586 194	3 575 670	87 527 540	27 520 523	29 902 147	74.54
041 803	2 484 251	3 131 087	5 442 111	729 879	11 787 328	1 046 988	1 254 475	90.38
725 126	5 220 797	6 669 478	14 347 190	1 433 202	27 670 667	9 678 438	10 054 459	73.35
708 565	249 292	126 916	319 133	27 538	722 879	d 20 270	d 14 314	102.02
897 558	7 750 217	8 931 608	19 911 600	2 418 985	39 112 410	12 433 700	13 785 148	73.94
581 841	20 240 019	33 434 757	41 009 986	3 371 584	98 056 346	36 572 283	38 525 495	71.79
294 285	290 399	242 350	561 530	135 256	1 229 535	1 042 701	1 064 750	53.59
372 910	635 082	663 103	1 905 413	251 526	3 455 124	1 809 110	1 917 786	64.31
237 062	9 847 489	20 051 803	35 474 320	3 119 632	68 493 244	21 428 253	22 743 818	75.07
382 080	716 990	1 596 243	2 338 225	419 489	5 070 947	3 209 413	3 311 133	60.50
109 913	3 235 343	3 624 560	6 935 195	881 110	14 676 208	5 166 264	5 433 705	72.98
720 475	4 168 642	5 301 206	6 725 822	863 607	17 059 277	7 394 050	7 661 198	69.01
672 525	f 177 959	f 109 675	f 220 593	f 22 710	f 530 937	141 588	141 588	78.95
688 757	2 124 297	2 072 966	3 786 928	471 098	8 455 289	3 037 540	3 233 468	72.34
543 567	689 389	506 500	923 725	95 526	2 215 140	293 619	328 427	87.09
258 906	2 172 968	2 170 088	4 618 642	453 379	9 415 077	3 258 268	3 843 829	71.01
185 726	374 988	460 530	842 047	131 529	1 809 094	356 321	376 632	82.77
436 591	483 235	484 598	843 894	137 751	1 949 478	471 422	487 113	80.01
289 425	2 128 793	2 918 692	4 750 502	1 146 144	10 944 131	3 499 661	4 345 294	71.58
009 400	445 771	290 333	687 373	205 730	1 629 207	365 458	380 193	81.08
167 851	f 18 856	f 23 437	f 51 632	f 19 843	f 113 768	54 083	54 083	67.78
742 527	835 083	536 016	1 327 023	209 381	2 907 503	745 397	835 024	77.00

K. O. & G.	1 994 665	2 009 400	445 771	290 333	687 373	205 730	1 62
K. O. & G. of Tex.	167 851	167 851	f 18 856	f 23 437	f 51 632	f 19 843	f 11
L. R. & N. Co.	3 652 900	3 742 527	835 083	536 016	1 327 023	209 381	2 90
L. R. & N. Co. of Tex.	1 103 787	1 117 048	168 485	132 344	421 399	79 020	80
La. Western	2 861 440	2 899 775	358 989	658 467	839 598	219 747	2 07
M. K. T.	26 468 310	26 848 705	3 225 490	5 202 146	6 733 532	1 166 013	16 32
M. K. T. of Tex.	15 863 394	16 193 474	2 185 802	2 619 763	5 629 714	829 155	11 26
Mo. Pac.	95 949 391	98 386 086	14 559 064	19 146 665	36 157 690	4 286 523	74 14
M. L. & T.	6 142 184	6 334 682	1 161 190	1 511 164	2 672 745	392 792	5 73
N. O. T. & M.	2 837 859	2 856 248	545 688	485 114	639 289	171 762	1 84
P. H. & S. F.	9 019 079	9 069 648	1 097 380	2 205 504	2 461 573	201 178	5 96
St. L. B. & M.	5 840 351	5 868 165	932 009	623 668	1 271 103	306 044	3 13
St. L. S. F.	62 048 394	63 390 293	8 065 048	12 868 525	21 294 075	2 228 243	44 45
St. L. S. F. & Tex.	1 777 371	1 793 754	254 462	278 706	610 102	101 895	1 24
St. L. S. W.	15 467 940	15 607 600	1 887 828	3 079 091	3 542 604	1 195 398	9 70
St. L. S. W. of Tex.	6 315 561	6 407 699	1 435 505	1 642 776	2 314 866	535 333	5 92
S. A. & A. P.	6 083 854	6 163 817	1 288 115	1 225 527	1 957 606	288 468	4 75
T. & Ft. S.	2 483 893	2 605 992	262 880	220 760	637 309	174 061	1 29
Texas & N. O.	6 747 985	6 890 040	1 551 111	1 757 030	2 688 524	107 961	6 10
Texas & Pacific	23 930 347	24 264 525	3 501 790	4 800 681	8 458 232	1 281 559	18 04
V. S. & P.	2 934 687	3 016 212	545 277	456 798	1 072 733	255 509	2 33

d—Deficit.

f—Separation of Operating Expenses not made by Class II Carriers. Proportion of each class of Operating Expenses assigned to Service in ratio of Freight Revenue to Total Operating Revenue.

400	445 771	290 333	687 373	205 730	1 629 207	365 458	380 193	81.08
851	f 18 856	f 23 437	f 51 632	f 19 843	f 113 768	54 083	54 083	67.78
527	835 083	536 016	1 327 023	209 381	2 907 503	745 397	835 024	77.69
048	168 485	132 344	421 399	79 020	801 248	302 539	315 800	71.73
775	358 989	658 467	839 598	219 747	2 076 801	784 639	822 974	71.62
705	3 225 490	5 202 146	6 733 532	1 166 013	16 327 181	10 141 129	10 521 524	60.81
474	2 185 802	2 619 763	5 629 714	829 155	11 264 434	4 598 960	4 929 040	69.56
086	14 559 064	19 146 665	36 157 690	4 286 523	74 149 942	21 799 449	24 236 144	75.37
682	1 161 190	1 511 164	2 672 745	392 792	5 737 891	404 293	596 791	90.58
248	545 688	485 114	639 289	171 762	1 841 853	996 006	1 014 395	64.49
648	1 097 380	2 205 504	2 461 573	201 178	5 965 635	3 053 444	3 104 013	65.78
165	932 009	623 668	1 271 103	306 044	3 132 824	2 707 527	2 735 341	53.39
293	8 065 048	12 868 525	21 294 075	2 228 243	44 455 891	17 592 503	18 934 402	70.13
754	254 462	278 706	610 102	101 895	1 245 165	532 206	548 589	69.42
600	1 887 828	3 079 091	3 542 604	1 195 398	9 704 921	5 763 019	5 902 679	62.18
699	1 435 505	1 642 776	2 314 866	535 333	5 928 480	387 081	479 219	92.52
817	1 288 115	1 225 527	1 957 606	288 468	4 759 716	1 324 138	1 404 101	77.22
992	262 880	220 760	637 309	174 061	1 295 010	1 188 883	1 310 982	49.69
040	1 551 111	1 757 030	2 688 524	107 961	6 104 626	643 359	785 414	88.60
525	3 501 790	4 800 681	8 458 232	1 281 559	18 042 262	5 888 085	6 222 263	74.36
212	545 277	456 798	1 072 733	255 509	2 330 317	604 370	685 895	77.26

Class II Carriers. Proportion of each class of Operating Expenses assigned to Freight Operating Revenue.

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Tons and Ton Miles Revenue Freight, Car Miles, and Average per
Per Ton Mile and per Car Mile

Year Ended December 31, 1924

	Freight tonnage and averages							re fr
	Tons revenue freight	Ton miles revenue freight	Average haul, miles	Revenue per ton	Revenue P. T. M. mills	Freight-car miles		
						Loaded	Empty	
Chicago & Alton	12 616 257	2 183 640 744	173	$1.716	09.93	90 670 163	53 858 494	
C. & E. I.	13 387 224	2 211 994 166	165	1.448	08.76	75 765 226	42 182 308	
C. & N. W.	52 158 316	8 290 312 710	159	1.985	12.49	420 324 100	243 733 471	
C. B. & Q.	42 778 294	12 287 747 806	287	2.800	09.75	518 356 626	306 655 232	
C. G. W.	6 587 565	1 944 028 953	295	2.848	09.65	94 728 338	48 718 856	
C. M. & St. P.	47 143 747	11 004 765 149	233	2.547	10.91	509 802 917	264 647 287	
C. St. P. M. & O.	10 567 741	1 638 715 336	155	1.894	12.22	76 924 124	33 289 269	
Illinois Central	49 040 926	13 063 939 704	266	2.346	08.81	539 988 645	301 934 303	
M. & St. L.	6 642 929	1 207 204 121	182	1.932	10.63	50 278 882	25 511 931	
M. St. P. & S. S. M.	15 820 453	3 407 219 070	215	2.361	10.96	156 523 728	69 138 740	
Q. O. & K. C.	475 649	39 833 002	84	1.477	17.64	1 922 385	1 020 347	
Wabash	19 289 805	4 920 973 835	255	2.672	10.47	236 102 291	101 341 209	
A. T. & S. F.	33 631 574	10 003 531 499	297	4.003	13.46	541 018 943	293 525 352	
B. S. L. & W.	1 769 491	179 723 499	102	1.284	12.64	7 786 356	4 710 487	
C. R. I. & G.	4 309 766	348 796 844	81	1.221	15.09	16 860 765	10 773 424	
C. R. I. & P.	29 180 016	7 504 404 167	257	3.082	11.98	391 100 108	194 324 532	
Ft. W. & D. C.	3 402 165	564 420 341	166	2.434	14.67	25 878 800	13 275 915	
G. H. & S. A.	8 238 654	1 740 768 089	211	2.408	11.40	79 278 413	35 808 570	
G. C. & S. F.	9 310 233	2 306 425 463	248	2.627	10.60	95 702 129	51 619 304	
H. & S.	720 456	29 275 357	41	0.933	22.97	1 238 733	505 337	
H. & T. C.	4 911 237	741 222 713	151	2.340	15.51	31 820 991	19 243 017	
H. E. & W. T.	1 645 133	142 711 829	87	1.525	17.58	6 717 957	3 612 166	
I. G. N.	4 429 176	721 963 934	163	2.861	17.55	39 894 886	19 162 372	
K. C. M. & O.	1 037 149	209 904 000	202	2.088	10.32	10 021 077	4 451 594	
K. C. M. & O. of Tex.	1 233 444	136 298 000	111	1.979	17.76	7 734 365	3 507 629	
K. C. S.	5 548 545	1 400 024 022	252	2.603	10.32	55 759 929	22 353 057	
K. O. & G.	1 436 062	140 315 000	98	1.389	14.22	5 857 262	2 758 699	
O. & G. of Tex.	418 654	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	

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and Ton Miles Revenue Freight, Car Miles, and Average per Ton, Per Ton Mile and per Car Mile

Year Ended December 31, 1924

Revenue per ton	Revenue P. T. M. mills	Freight-car miles		Averages per loaded freight-car mile				Freight revenues and expenses per 1,000,000 net ton-miles		
		Loaded	Empty	Tons revenue freight	Revenue, cents	Expense, cents	Net Revenue, cents	Revenue	Expenses	Net revenue
$1.716	09.93	90 670 163	53 858 494	24.1	23.9	19.1	4.8	$9 926	$7 930	$1 996
1.448	08.76	75 765 226	42 182 308	29.2	25.6	22.7	2.9	8 762	7 756	1 006
1.985	12.49	420 324 100	243 733 471	19.7	24.7	20.3	4.4	12 486	10 278	2 208
2.800	09.75	518 356 626	306 655 232	23.7	23.1	17.0	6.1	9 747	7 181	2 566
2.848	09.65	94 728 338	48 718 856	20.5	19.8	15.8	4.0	9 652	7 675	1 977
2.547	10.91	509 802 917	264 647 287	21.6	23.6	17.9	5.7	10 911	8 290	2 621
1.894	12.22	76 924 124	33 289 269	21.3	26.0	21.4	4.6	12 216	10 066	2 150
2.346	08.81	539 988 645	301 934 303	24.2	21.3	16.2	5.1	8.807	6 700	2 107
1.932	10.63	50 278 882	25 511 931	24.0	25.5	23.5	2.0	10.631	9 764	867
2.361	10.96	156 523 728	69 138 740	21.8	23.9	17.7	6.2	10 962	8 121	2 841
1.477	17.64	1 922 385	1 020 347	20.7	36.5	37.6	d 1.1	17 639	18 148	d 509
2.672	10.47	236 102 291	101 341 209	20.8	21.8	16.6	5.2	10 475	7 948	2 527
4.003	13.46	541 018 943	293 525 352	18.5	24.9	18.1	6.8	13 458	9 802	3 656
1.284	12.64	7 786 356	4 710 487	23.1	29.2	15.8	13.4	12 643	6 841	5 802
1.221	15.09	16 860 765	10 773 424	20.7	31.2	20.5	10.7	15 093	9 906	5 187
3.082	11.98	391 100 108	194 324 532	19.2	23.0	17.5	5.5	11 982	9 127	2 855
2.434	14.67	25 878 800	13 275 915	21.8	32.1	19.6	12.5	14 671	8 984	5 687
2.408	11.40	79 278 413	35 808 570	22.0	25.0	18.5	6.5	11 399	8 431	2 968
2.627	10.60	95 702 129	51 619 304	24.1	25.6	17.9	7.7	11 602	7 396	3 206
0.933	22.97	1 238 733	505 337	23.6	54.3	42.9	11.4	22 972	18 136	4 836
2.340	15.51	31 820 991	19 243 017	23.3	36.1	26.6	9.5	15 505	11 407	4 098
1.525	17.58	6 717 957	3 612 166	21.2	37.3	33.0	4.3	17 579	15 522	2 057
2.861	17.55	39 894 886	19 162 372	18.1	31.8	23.6	8.2	17 554	13 041	4 513
2.088	10.32	10 021 077	4 451 594	21.0	21.6	18.1	3.5	10 316	8 619	1 697
1.979	17.76	7 734 365	3 507 629	17.6	31.3	25.2	6.1	17 762	14 303	3 459
2.603	10.32	55 759 929	22 353 057	25.1	25.9	19.6	6.3	10 317	7 817	2 500
1.389	14.22	5 857 262	2 758 699	24.0	34.1	27.8	6.3	14 216	11 611	2 605

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
K. C. M. & O.	1 037 149	209 904 000	202	2.088	10.32	10 021 077	4 451 594	2
K. C. M. & O. of Tex.	1 233 444	136 298 000	111	1.979	17.76	7 734 365	3 507 629	1
K. C. S.	5 548 545	1 400 024 022	252	2.603	10.32	55 759 929	22 353 057	2
K. O. & G.	1 436 062	140 315 000	98	1.389	14.22	5 857 262	2 758 699	2
H. O. & G. of Tex.	418 624	3 809 478	9	0.401	44.06	170 280	63 009	2
L. R. & N. Co.	2 092 928	271 752 415	130	1.745	13.44	11 236 701	6 618 821	2
L. R. &. N. Co. of Tex.	728 613	82 668 500	113	1.515	13.35	3 547 858	1 685 697	2
La. Western	3 768 443	254 652 018	68	0.759	11.24	10 413 144	5 370 931	2
M. K. T.	8 131 241	1 942 397 004	239	3.255	13.63	97 838 337	57 988 155	1
M. K. T. of Tex.	6 472 918	1 126 550 776	174	2.451	14.08	59 963 179	36 168 243	1
Mo. Pac.	36 713 004	8 773 081 103	239	2.614	10.94	396 750 008	198 712 436	2
M. L. & T.	3 751 799	429 790 513	115	1.637	14.29	18 792 730	8 952 988	2
N. O. T. & M.	2 245 313	246 580 543	110	1.264	11.51	10 176 893	5 604 444	2
P. H. & S. F.	3 898 847	770 920 884	198	2.313	11.70	44 934 871	21 529 377	1
St. L. B. & M.	1 676 717	365 593 838	218	3.483	15.97	19 287 568	12 735 327	1
St. L. S. F.	24 040 323	4 575 326 670	190	2.581	13.56	212 042 950	112 671 828	2
St. L. S. F. & Tex.	1 415 221	86 458 095	61	1.256	20.56	4 310 844	2 948 972	2
St. L. S. W.	3 987 400	1 067 913 752	268	3.879	14.48	55 141 335	19 324 530	1
St. L. S. W. of Tex.	2 875 384	355 522 611	124	2.196	17.76	19 200 324	9 935 187	1
S. A. & A. P.	2 298 710	281 287 183	122	2.647	21.63	15 333 975	8 979 449	1
T. & Ft. S.	4 311 626	142 221 415	33	0.576	17.46	4 941 465	2 669 680	2
Texas & N. O.	5 776 302	498 085 219	86	1.168	13.55	24 261 562	14 468 793	2
Texas & Pacific	9 394 609	1 616 722 258	172	2.547	14.80	86 903 023	44 520 858	1
V. S. & P.	2 233 726	184 463 773	83	1.314	15.91	8 057 000	4 282 000	2

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
2.088	10.32	10 021 077	4 451 594	21.0	21.6	18.1	3.5	10 316	8 619	1 697
1.979	17.76	7 734 365	3 507 629	17.6	31.3	25.2	6.1	17 762	14 303	3 459
2.603	10.32	55 759 929	22 353 057	25.1	25.9	19.6	6.3	10 317	7 817	2 500
1.389	14.22	5 857 262	2 758 699	24.0	34.1	27.8	6.3	14 216	11 611	2 605
0.401	44.06	170 280	63 009	22.4	98.6	66.8	31.8	44 061	29 864	14 197
1.745	13.44	11 236 701	6 618 821	24.2	32.5	25.9	6.6	13 441	10 699	2 742
1.515	13.35	3 547 858	1 685 697	22.7	31.1	22.6	8.5	13 352	9 692	3 660
0.759	11.24	10 413 144	5 370 931	24.5	27.5	19.9	7.6	11 237	8 155	3 082
3.255	13.63	97 838 337	57 988 155	19.9	27.1	16.7	10.4	13 619	8 401	5 218
2.451	14.08	59 963 179	36 168 243	18.8	26.5	18.8	7.7	14 082	9 999	4 083
2.614	10.94	396 750 008	198 712 436	22.1	24.2	18.7	5.5	10 937	8 452	2 485
1.637	14.29	18 792 730	8 952 988	22.9	32.7	30.5	2.2	14 291	13 350	941
1.264	11.51	10 176 893	5 604 444	24.2	27.8	18.1	9.7	11 509	7 470	4 039
2.313	11.70	44 934 871	21 529 377	17.2	20.1	13.3	6.8	11 699	7 738	3 961
3.483	15.97	19 287 568	12 735 327	19.0	30.3	16.2	14.1	15 975	8 569	7 406
2.581	13.56	212 042 950	112 671 828	21.6	29.3	21.0	8.3	13 562	9 716	3 846
1.256	20.56	4 310 844	2 948 972	20.1	41.2	28.9	12.3	20 558	14 402	6 156
3.879	14.48	55 141 335	19 324 530	19.4	28.1	17.6	10.5	14 484	9 088	5 396
2.196	17.76	19 200 324	9 935 187	18.5	32.9	30.9	2.0	17 764	16 674	1 090
2.647	21.63	15 333 975	8 979 449	18.3	39.7	31.0	8.7	21 629	16 921	4 708
0.576	17.46	4 941 465	2 669 680	28.8	50.3	26.2	24.1	17 465	9 106	8 359
1.168	13.55	24 261 562	14 468 793	20.5	27.8	25.2	2.6	13 547	12 255	1 292
2.547	14.80	86 903 023	44 520 858	18.6	27.5	20.8	6.7	14 802	11 160	3 642
1.314	15.91	8 057 000	4 282 000	22.9	36.4	28.9	7.5	15 909	12 633	3 276

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Averages per Mile of Road

Year Ended December 31, 1924

Railroad	Ton-miles revenue, freight	Operating revenues	Railway operating expenses					Net operating revenue
			M. of W. and S.	M. of E.	Transportation	Other expenses	Total	
Chicago & Alton	2 077 956	$29 361	$3 968	$6 672	$10 777	$1 320	$22 737	$6 624
C. & E. I.	2 340 413	27 582	2 756	8 282	11 012	1 707	23 757	3 825
C. & N. W.	979 615	17 660	2 666	3 614	7 148	815	14 243	3 417
C. B. & Q.	1 306 203	17 293	2 064	3 697	6 145	846	12 752	4 541
C. G. W.	1 299 432	16 528	2 461	3 159	6 837	1 071	13 528	3 000
C. M. & St. P.	1 001 624	14 414	2 043	3 105	5 632	647	11 427	2 986
C. St. P. M. & O.	936 842	15 959	2 125	2 902	6 882	777	12 686	3 273
Illinois Central	2 693 740	31 282	4 187	7 334	11 432	1 346	24 299	6 983
M. & St. L.	732 856	9 165	1 847	2 340	4 114	530	8 831	334
M. St. P. & S. S. M.	773 923	10 890	1 563	1 964	4 309	526	8 362	2 528
Q. O. & K. C.	158 798	4 193	1 485	746	2 082	170	4 483	d 290
Wabash	1 976 350	26 419	3 982	4 650	10 030	1 539	20 201	6 218
A. T. & S. F.	1 102 973	21 409	3 293	4 849	6 687	733	15 562	5 847
B. S. L. & W.	1 513 461	23 225	3 341	2 667	6 701	1 622	14 331	8 894
C. R. I. & G.	756 232	14 512	1 913	1 760	5 531	861	10 065	4 447
C. R. I. & P.	985 935	16 316	1 866	3 564	6 468	789	12 687	3 629
Ft. W. & D. C.	1 236 030	24 462	2 078	4 450	6 734	1 409	14 671	9 791
C. H. & S. A.	1 261 792	19 103	3 006	3 458	6 471	1 276	14 211	4 892
G. C. & S. F.	1 208 261	15 782	2 856	3 287	4 618	671	11 432	4 350
H. & S.	718 590	19 922	5 272	3 249	6 535	672	15 728	4 194
H. & T. C.	797 777	16 820	3 225	2 923	5 471	890	12 509	4 311
H. E. & W. T.	744 843	16 711	4 538	3 541	5 863	718	14 660	2 051
I. G. N.	622 651	14 576	2 579	2 587	5 271	737	11 173	3 403
F. C. M. & O.	771 139	8 678	1 564	2 075	3 539	519	7 697	981
K. C. M. & O. of Tex.	292 642	5 725	1 171	1 210	2 056	320	4 757	968
K. C. S.	1 811 133	23 456	3 451	4 643	7 785	1 839	17 718	5 738
K. O. & G.	446 266	6 948	1 679	1 101	2 622	718	6 120	828
K. O. & G. of Tex.	418 623	19 011	2 136	2 655	5 848	2 247	12 886	6 125
L. R. & N. Co.	802 505	12 238	3 233	2 073	4 928	722	10 951	1 287

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Averages per Mile of Road

Year Ended December 31, 1924

Operating revenues	Railway operating expenses					Net operating revenue	Railway operating income	Freight proportion of total operating revenue	Operating expenses, freight	Net freight revenue
	M. of W. and S.	M. of E.	Transportation	Other expenses	Total					
$29 361	$3 968	$6 672	$10 777	$1 320	$22 737	$6 624	$5 436	$21 108	$16 477	$4 631
27 582	2 756	8 282	11 012	1 707	23 757	3 825	2 281	20 834	18 152	2 682
17 660	2 666	3 614	7 148	815	14 243	3 417	2 305	12 657	10 068	2 589
17 293	2 064	3 697	6 145	846	12 752	4 541	3 401	13 102	9 380	3 722
16 528	2 461	3 159	6 837	1 071	13 528	3 000	2 365	12 796	9 973	2 823
14 414	2 043	3 105	5 632	647	11 427	2 986	2 155	11 282	8 303	2 979
15 959	2 125	2 902	6 882	777	12 686	3 273	2 342	11 627	9 431	2 196
31 282	4 187	7 334	11 432	1 346	24 299	6 983	4 635	24 214	18 048	6 166
9 165	1 847	2 340	4 114	530	8 831	334	d 118	7 917	7 155	762
10 890	1 563	1 964	4 309	526	8 362	2 528	1 824	8 569	6 285	2 284
4 193	1 485	746	2 082	170	4 483	d 290	d 510	2 825	2 882	57
26 419	3 982	4 650	10 030	1 539	20 201	6 218	4 993	21 245	15 709	5 536
21 409	3 293	4 849	6 687	733	15 562	5 847	4 061	15 059	10 812	4 247
23 225	3 341	2 667	6 701	1 622	14 331	8 894	8 207	19 320	10 354	8 966
14 512	1 913	1 760	5 531	861	10 065	4 447	4 112	11 649	7 491	4 158
16 316	1 866	3 564	6 468	789	12 687	3 629	2 779	11 987	8 999	2 988
24 462	2 078	4 450	6 734	1 409	14 671	9 791	8 405	18 356	11 105	7 251
19 103	3 006	3 458	6 471	1 276	14 211	4 892	4 248	14 577	10 638	3 939
15 782	2 856	3 287	4 618	671	11 432	4 350	3 796	12 950	8 937	4 013
19 922	5 272	3 249	6 535	672	15 728	4 194	3 351	16 508	13 032	3 476
16 820	3 225	2 923	5 471	890	12 509	4 311	3 490	12 581	9 101	3 480
16 711	4 538	3 541	5 863	718	14 660	2 051	1 544	13 276	11 562	1 714
14 576	2 579	2 587	5 271	737	11 173	3 403	2 922	11 435	8 120	3 315
8 678	1 564	2 075	3 539	519	7 697	981	866	8 030	6 646	1 384
5 725	1 171	1 210	2 056	320	4 757	968	820	5 232	4 186	1 046
23 456	3 451	4 643	7 785	1 839	17 718	5 738	4 319	19 779	14 158	5 621
6 948	1 679	1 101	2 622	718	6 120	828	416	6 391	5 182	1 209
19 011	2 136	2 655	5 848	2 247	12 886	6 125	5 823	18 445	12 502	5 943
12 238	3 233	2 073	4 923	722	10 951	1 287	552	11 052	8 586	2 466
6 529	1 194	893	2 909	480	5 476	1 053	729	5 490	3 898	1 592

K. O. & G. of Tex.	418 623	19 011	2 136	2 655	5 848	2 247	12 886	6 125	5 8
L. R. & N. Co.	802 505	12 238	3 233	2 073	4 923	722	10 951	1 287	5
L. R. & N. Co. of Tex.	401 148	6 529	1 194	893	2 909	480	5 476	1 053	7
La. Western	1 225 821	20 204	2 595	3 891	5 965	1 974	14 425	5 779	4 0
M. K. T.	1 076 788	19 119	2 446	4 318	5 144	1 040	12 948	6 171	4 7
M. K. T. of Tex.	810 900	16 427	2 269	2 682	5 820	1 016	11 787	4 640	4 1
Mo. Pac.	1 192 000	16 800	2 570	3 511	6 349	949	13 379	3 421	2 7
M. L. & T.	1 072 680	21 097	3 932	4 786	8 548	1 692	18 958	2 139	6
N. O. T. & M.	1 289 512	17 716	3 644	3 237	4 237	1 234	12 352	5 364	4 0
P. H. & S. F.	897 996	12 943	1 622	2 948	3 652	340	8 562	4 381	3 7
St. L. B. & M.	664 450	14 251	2 355	1 679	3 430	818	8 282	5 969	5 2
St. L. S. F.	961 048	18 062	2 308	3 628	6 096	691	12 723	5 339	4 3
St. L. S. F. & Tex.	626 735	14 743	2 196	2 407	5 248	1 009	10 860	3 883	3 6
St. L. S. W.	1 101 158	18 813	2 469	3 945	4 765	1 517	12 696	6 117	5 1
St. L. S. W. of Tex.	440 439	10 011	2 277	2 542	3 902	837	9 558	453	
S. A. & A. P.	380 447	10 042	2 203	2 130	3 637	517	8 487	1 555	1 2
T. & Ft. S.	1 754 088	35 672	3 760	3 325	9 577	2 578	19 240	16 432	14 0
Texas & N. O.	980 579	18 275	3 997	4 404	6 850	695	15 946	2 329	1 6
Texas & Pacific	827 925	17 301	2 479	3 314	5 935	1 199	12 927	4 374	3 4
V. S. & P.	978 795	22 600	4 324	3 477	8 004	1 851	17 656	4 944	3 4

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23	19 011	2 136	2 655	5 848	2 247	12 886	6 125	5 823	18 445	12 502	5 943
05	12 238	3 233	2 073	4 923	722	10 951	1 287	552	11 052	8 586	2 466
48	6 529	1 194	893	2 909	480	5 476	1 053	729	5 420	3 888	1 532
21	20 204	2 595	3 891	5 965	1 974	14 425	5 779	4 002	13 959	9 997	3 962
88	19 119	2 446	4 318	5 144	1 040	12 948	6 171	4 716	14 884	9 051	5 833
00	16 427	2 269	2 682	5 820	1 016	11 787	4 640	4 191	11 656	8 108	3 548
00	16 800	2 570	3 511	6 349	949	13 379	3 421	2 778	13 368	10 075	3 293
80	21 097	3 932	4 786	8 548	1 692	18 958	2 139	603	15 810	14 321	1 489
12	17 716	3 644	3 237	4 237	1 234	12 352	5 364	4 003	14 937	9 632	5 305
96	12 943	1 622	2 948	3 652	340	8 562	1 381	3 750	10 565	6 949	3 616
50	14 251	2 355	1 679	3 430	818	8 282	5 969	5 291	10 665	5 694	4 971
48	18 062	2 308	3 628	6 096	691	12 723	5 339	4 383	13 315	9 338	3 977
35	14 743	2 196	2 407	5 248	1 009	10 860	3 883	3 658	13 003	9 026	3 977
58	18 813	2 469	3 945	4 765	1 517	12 696	6 117	5 160	16 093	10 007	6 086
39	10 011	2 277	2 542	3 902	837	9 558	453	51	7 938	7 344	594
47	10 042	2 203	2 130	3 637	517	8 487	1 555	1 280	8 337	6 438	1 899
38	35 672	3 760	3 325	9 577	2 578	19 240	16 432	14 091	32 141	15 972	16 169
79	18 275	3 997	4 404	6 850	695	15 946	2 329	1 630	13 564	12 018	1 546
25	17 301	2 479	3 314	5 935	1 199	12 927	4 374	3 413	12 426	9 240	3 186
45	22 600	4 324	3 477	8 004	1 851	17 656	4 944	3 459	16 005	12 365	3 640

Freight Train and Locomotive Miles (Including a Proportion of Mixed Train Miles and Mixed Train Locomotive Miles) and Averages Per Freight Train Mile

Year Ended December 31, 1924

	Train and Locomotive Miles					Average		
	Freight train miles	Freight train locomotive miles	Train switching locomotive miles	Yard switching locomotive miles	Train locomotive miles	Car Miles		
						Loaded	Empty	Total
Chicago & Alton	3 922 277	4 051 097	208 724	1 716 438	1.033	23.1	13.7	36.8
C. & E. I.	2 909 013	2 990 156	194 025	1 900 816	1.028	26.0	14.5	40.5
C. & N. W.	18 623 272	19 565 286	673 544	9 970 530	1.051	22.6	13.1	35.7
C. B. & Q.	19 018 826	20 590 147	907 844	8 989 284	1.083	27.3	16.1	43.4
C. G. W.	3 258 149	3 903 298	264 380	1 460 173	1.198	29.1	15.0	44.1
C. M. & St. P.	18 976 895	20 599 768	2 039 580	10 025 490	1.086	26.9	13.9	40.8
C. St. P. M. & O.	4 007 359	4 507 259	427 776	1 979 185	1.125	19.2	8.3	27.5
Illinois Central	19 105 693	19 769 456	933 933	8 619 995	1.035	28.3	15.8	44.1
M. & St. L.	2 804 945	3 150 615	203 999	801 186	1.123	17.9	9.1	27.0
M. St. P. & S. S. M.	6 645 754	6 877 548	249 533	2 321 148	1.035	23.5	10.4	33.9
Q. O. & K. C.	171 887	203 300	5 316	11 722	1.183	11.2	5.9	17.1
Wabash	7 838 403	8 325 744	468 781	3 695 354	1.062	30.1	12.9	43.0
A. T. & S. F.	18 536 430	20 947 980	565 564	7 367 349	1.130	29.2	15.8	45.0
B. S. L. & W.	217 391	219 807	16 770	32 958	1.011	35.8	21.7	47.5
C. R. I. & G.	898 499	918 165	17 052	264 531	1.022	18.8	12.0	30.8
C. R. I. & P.	16 778 874	17 298 750	1 023 805	6 234 178	1.031	23.3	11.6	34.9
Ft. W. & D. C.	965 762	983 120	76 824	477 323	1.018	26.8	13.7	40.5
G. H. & S. A.	3 167 990	3 186 323	164 659	779 440	1.006	24.2	11.3	35.5
G. C. & S. F.	3 339 992	3 556 049	176 284	921 539	1.065	28.7	15.5	44.2
H. & S.	95 731	96 171	18 276	50 404	1.005	12.9	5.3	18.2
H. & T. C.	1 625 338	1 665 811	68 906	556 148	1.025	19.6	11.8	31.4
H. E. & W. T.	471 183	473 978	123 392	41 790	1.006	14.3	7.7	22.0
I. G. N.	1 822 497	1 860 670	138 678	896 918	1.021	21.9	10.5	32.4
K. C. M. & O.	542 292	550 740	19 950	118 578	1.016	18.5	8.2	26.7
K. C. M. & O. of Tex.	585 111	592 592	35 376	82 290	1.013	13.2	6.0	19.2
K. C. S.	1 808 589	1 937 858	41 787	877 264	1.071	30.8	12.4	43.2
K. O. & G.	355 284	355 501	19 502	103 792	1.001	16.5	7.8	24.3

ive Miles (Including a Proportion of Mixed Train Miles and Mixed Train Locomotive Miles); Switching Locomotive Miles, and Averages Per Freight Train Mile

Year Ended December 31, 1924

Train and Locomotive Miles				Average per Freight Train Mile						
Freight train locomotive miles	Train switching locomotive miles	Yard switching locomotive miles	Train locomotive miles	Car Miles			Tons revenue freight	Revenue	Expenses	Net revenue
				Loaded	Empty	Total				
4 051 097	208 724	1 716 438	1.033	23.1	13.7	36.8	557	$5.53	$4.42	$1.11
2 990 156	194 025	1 900 816	1.028	26.0	14.5	40.5	760	6.66	5.90	.76
19 565 286	673 544	9 970 530	1.051	22.6	13.1	35.7	445	5.56	4.58	.98
20 590 147	907 844	8 989 284	1.083	27.3	16.1	43.4	646	6.30	4.64	1.66
3 903 298	264 380	1 460 173	1.198	29.1	15.0	44.1	597	5.75	4.58	1.17
20 599 768	2 039 580	10 025 490	1.086	26.9	13.9	40.8	580	6.33	4.81	1.52
4 507 259	427 776	1 979 185	1.125	19.2	8.3	27.5	409	5.00	4.12	.88
19 769 456	933 933	8 619 995	1.035	28.3	15.8	44.1	683	6.02	4.58	1.44
3 150 615	203 999	801 186	1.123	17.9	9.1	27.0	430	4.58	4.20	.38
6 877 548	249 533	2 321 148	1.035	23.5	10.4	33.9	513	5.62	4.16	1.46
203 300	5 316	11 722	1.183	11.2	5.9	17.1	232	4.09	4.21	d .12
8 325 744	468 781	3 695 354	1.062	30.1	12.9	43.0	628	6.58	4.99	1.59
20 947 980	565 564	7 367 349	1.130	29.2	15.8	45.0	540	7.26	4.29	1.97
219 807	16 770	32 958	1.011	35.8	21.7	47.5	827	10.45	5.66	4.79
918 165	17 052	264 531	1.022	18.8	12.0	30.8	388	5.86	3.85	2.01
17 298 750	1 023 805	6 234 178	1.031	23.3	11.6	34.9	447	5.36	4.08	1.28
983 120	76 824	477 323	1.018	26.8	13.7	40.5	584	8.57	5.25	3.32
3 186 323	164 659	779 440	1.006	24.2	11.3	35.5	549	6.26	4.63	1.63
3 556 049	176 284	921 539	1.065	28.7	15.5	44.2	691	7.32	5.11	2.21
96 171	18 276	50 404	1.005	12.9	5.3	18.2	306	7.03	5.55	1.48
1 665 811	68 906	556 148	1.025	19.6	11.8	31.4	456	7.07	5.20	1.87
473 978	123 392	41 790	1.006	14.3	7.7	22.0	303	5.32	4.70	.62
1 860 670	138 678	896 918	1.021	21.9	10.5	32.4	396	6.95	5.17	1.78
550 740	19 950	118 578	1.016	18.5	8.2	26.7	387	3.99	3.34	.65
592 592	35 376	82 290	1.013	13.2	6.0	19.2	233	4.14	3.33	.81
1 937 858	41 787	877 264	1.071	30.8	12.4	43.2	774	7.99	6.05	1.94
355 501	19 502	103 792	1.001	16.5	7.8	24.3	395	5.61	4.58	1.03

K. C. M. & O. of Tex.	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
K. C. S.	1 808 589	1 937 858	41 787	877 264	1.071	30.8	12.4	43.2
K. O. & G.	355 284	355 501	19 502	103 792	1.001	16.5	7.8	24.3
K. O. & G. of Tex.	9 792	9 792	.....	18 306	1.000	17.4	6.4	23.8
L. R. & N. Co.	558 173	561 503	2 199	314 846	1.006	20.1	11.8	31.9
L. R. & N. Co. of Tex.	272 193	273 374	19 001	72 474	1.004	13.0	6.2	19.2
La. Western	350 826	355 652	31 110	92 538	1.014	29.7	15.3	45.0
M. K. T.	2 945 150	3 023 953	138 156	1 138 932	1.027	33.2	19.7	52.9
M. K. T. of Tex.	2 374 780	2 507 317	276 780	963 582	1.056	25.2	15.2	40.4
Mo. Pac.	15 473 380	16 212 702	1 266 375	6 184 144	1.048	25.6	12.8	38.4
M. L. & T.	691 714	709 070	99 312	680 876	1.025	27.2	12.9	40.1
N. O. T. & M.	293 763	299 601	27 669	133 076	1.020	34.6	19.1	53.7
P. H. & S. F.	1 329 305	1 405 542	2 184	199 713	1.057	33.8	16.2	50.0
St. L. B. & M.	666 011	669 948	97 974	104 874	1.006	29.0	19.1	48.1
St. L. S. F.	10 150 799	10 550 773	1 274 173	3 780 758	1.039	20.9	11.1	32.0
St. L. S. F. & Tex.	223 758	226 370	22 758	113 655	1.012	19.3	13.2	32.5
St. L. S. W.	1 658 918	1 682 668	82 795	463 107	1.014	33.2	11.6	44.8
St. L. S. W. of Tex.	1 134 282	1 157 740	139 770	387 914	1.021	16.9	8.8	25.7
S. A. & A. P.	1 067 896	1 114 264	134 978	238 768	1.043	14.4	8.4	22.8
T. & Ft. S.	166 760	169 506	3 458	173 456	1.016	29.6	16.0	45.6
Texas & N. O.	1 143 834	1 148 328	80 080	926 974	1.004	21.2	12.6	33.8
Texas & Pacific	3 591 694	3 626 262	250 116	1 436 408	1.010	24.2	12.4	36.6
V. S. & P.	406 914	413 051	29 298	255 304	1.015	19.8	10.5	30.3

d—Deficit.

589	1 937 858	41 787	877 264	1.071	30.8	12.4	43.2	774	7.99	6.05	1.94
284	355 501	19 502	103 792	1.001	16.5	7.8	24.3	395	5.61	4.58	1.03
792	9 792	.....	18 306	1.000	17.4	6.4	23.8	389	17.14	11.62	5.52
173	561 503	2 199	314 846	1.006	20.1	11.8	31.9	487	6.54	5.21	1.33
193	273 374	19 001	72 474	1.004	13.0	6.2	19.2	304	4.06	2.94	1.12
326	355 652	31 110	92 538	1.014	29.7	15.3	45.0	726	8.16	5.92	2.24
150	3 023 953	138 156	1 138 932	1.027	33.2	19.7	52.9	660	8.99	5.54	3.45
780	2 507 317	276 780	963 582	1.056	25.2	15.2	40.4	474	6.68	4.74	1.94
380	16 212 702	1 266 375	6 184 144	1.048	25.6	12.8	38.4	567	6.20	4.79	1.41
714	709 070	99 312	680 876	1.025	27.2	12.9	40.1	621	8.88	8.30	.58
763	299 601	27 669	133 076	1.020	34.6	19.1	53.7	839	9.66	6.27	3.39
305	1 405 542	2 184	199 713	1.057	33.8	16.2	50.0	580	6.78	4.49	2.29
011	669 948	97 974	104 874	1.006	29.0	19.1	48.1	549	8.77	4.71	4.06
799	10 550 773	1 274 173	3 780 758	1.039	20.9	11.1	32.0	451	6.11	4.38	1.73
758	226 370	22 758	113 655	1.012	19.3	13.2	32.5	386	7.94	5.56	2.38
918	1 682 668	82 795	463 107	1.014	33.2	11.6	44.8	644	9.32	5.85	3.47
282	1 157 740	139 770	387 914	1.021	16.9	8.8	25.7	313	5.57	5.23	.34
906	1 114 264	134 978	238 768	1.043	14.4	8.4	22.8	263	5.70	4.46	1.24
760	169 506	3 458	173 456	1.016	29.6	16.0	45.6	853	14.89	7.76	7.13
384	1 148 328	80 080	926 974	1.004	21.2	12.6	33.8	435	5.90	5.34	.56
304	3 626 262	250 116	1 436 408	1.010	24.2	12.4	36.6	450	6.66	5.02	1.64
914	413 051	29 298	255 304	1.015	19.8	10.5	30.3	453	7.21	5.73	1.48

[fol. 277] I have included in addition to roads respondent in this proceeding three additional railroads, the Kansas, Oklahoma & Gulf Railway of Texas, the Louisiana Railroad & Navigation Company of Texas, and the Texarkana & Fort Smith Railway. The reason for adding these three roads is that they comprise parts of systems, and the parent or principal line was a respondent, and I deemed it advisable to include these three smaller roads with the parent companies forming separate systems, and in drawing up this exhibit I have omitted those respondents that are not in the territory within which the divisions here in issue are in effect (Tr. 4363).

The exhibit shows the reports which are included. The data on the exhibit was taken from reports filed by the railroad with the Interstate Commerce Commission, except certain averages that are matters of computation (Tr. 4364).

Page 2 is the first page on which these statistics appear and shows the railway operating revenues and expenses for the year 1924 for each of the railroads. It shows the average miles operated, the railway operating revenue, and railway operating expenses divided as between maintenance of way and structures, maintenance of equipment, transportation and other expenses, the net operating revenue, which is the amount remaining after deducting the operating expenses from the operating revenue and the ratio of operating expenses to operating revenue.

Then follow the railway tax accruals, uncollectable railway revenue, the railway operating income, which is the amount remaining after deducting from railway operating revenue the railway operating expenses, taxes, accruals and uncollectable revenue.

[fol. 278] And, finally, at the right of the sheet—in the column at the right of the sheet, the ratio of the total expense, that is, operating expense, taxes and uncollectable revenue to railway operating revenue (Tr. 4364-4365).

On page 3 I have shown freight revenue and expenses. The first column shows freight revenue, that is, the revenues reported under Account 101.

The second column of figures is the total revenue assignable to freight service. That includes freight revenue, Account 101, and such miscellaneous revenue as switching,

storage, demurrage, and so forth, as shown on page 302 of the annual report to the Commission, the operating expenses assignable to freight service are those so reported as either directly accruing in freight service or proportioned to freight service in accordance with the formula prescribed by the Interstate Commerce Commission for stating these accounts (Tr. 4365).

The net freight revenue is the difference between the freight revenue and the freight operating expense. The net revenue assignable to freight service is the amount remaining after deducting from total revenue assignable to freight service the freight operating expenses.

The operating ratio as shown on page 3 of this exhibit is the ratio of expense assignable to freight service to total revenue assignable to freight service.

In a few cases, such as the H. & S. and the K. O. & G. of Texas, the reports do not separate operating expenses as between freight and other services, that not being required of class 2 carriers.

[fol. 279] In these particular instances, as explained by the footnote at the bottom of the page, I have divided the operating expenses by assigning to freight the proportion equal to the percentage that freight revenue represents of total railway operating revenue.

On page 3 of the exhibit I have set out tons of revenue freight carried, the tons carried one mile, the average haul, the revenue per ton, and the revenue per ton mile. Following that are the freight car miles as shown by the reports to the Commission and averages per freight car mile, both as to tons of revenue freight carried, freight revenue, operating expenses, and net freight revenue.

The tons of revenue freight represent the result obtained by dividing the total loaded freight car miles into the ton miles of revenue freight. That is a little less than the average loading per car of revenue freight, for the reason that freight car miles are not separated as between car miles accruing in revenue freight service or non-revenue service.

The revenue is obtained by dividing the freight revenue account 101 by the loaded freight car miles, and that, too, will be a little less than the average revenue per loaded freight car mile employed in revenue freight service.

The same comment is true of the expenses. As the revenue freight car miles are not separately reported, it is, of course, not possible to make the comparison in any different way than I have done (Tr. 4365-4366-4367).

[fol. 280] The last three columns show the freight revenue account 101, the freight operating expenses and the net revenue per one million revenue ton miles. These figures are computations made by me from the data shown on page 4 as to ton miles revenue freight, and on page 3 as to freight revenue and freight operating expenses (Tr. 4367).

On page 5 are shown averages per mile of road. These averages are obtained by dividing the data shown on the preceding pages by the average miles of road operated.

Page 6 contains data as to freight train and locomotive miles, switching locomotive miles, and averages per freight train mile. The freight train miles shown in the first column of figures at the left of the page are the miles of freight trains plus a proportion of the miles of mixed trains. The mixed train miles being proportioned between freight and other services in the ratio of freight service cars carried in mixed trains to total cars carried in mixed trains.

The freight train locomotive miles similarly include a corresponding percentage of locomotive miles run in mixed trains.

The trainswitching locomotive miles and the freight yard switching locomotive miles shown on page 8 of the exhibit are the figures reported under those headings in the annual reports to the Commission (Tr. 4367-4368).

Next are the averages per freight train mile. The first column shows the train locomotive miles, that is, the ratio of train locomotive miles in freight service to freight train miles, including a proportion of mixed train miles and indicate the extent to which locomotive miles occur in excess of train miles.

The average cars, loaded and empty, carried per average [fol. 281] train are obtained by dividing the train miles into the car miles; similarly, the tons of revenue freight are obtained by dividing the total ton miles of revenue freight by the train miles and freight revenues and expenses and net road revenues are obtained by dividing the

train miles into the revenues, expenses and net revenue (Tr. 4368).

The reason why the revenues of the Southwestern lines are greater than that of the western trunk lines on page 4 will appear a little more clearly from another exhibit (Tr. 4368).

Exhibit A-52 is a statement of operating and traffic statistics and averages for the year ended December 31, 1923. It is similar to exhibit A-51 which I have just described, with this exception: On page 2 the data in all respects is the same except that a different year is used, but on page 3 I have shown only the freight revenue, account 101, and this exhibit does not show the total revenue assignable to freight service, that is, the freight revenue plus the revenues derived from switching, demurrage and other miscellaneous service.

Exhibit A-52 was received in evicence, which said exhibit, omitting title page, is in words and figures as follows:

(Here follows Exhibit No. A-52, side folios 282, 283, 284, 285, and 286)

[fol. 282]

EXHIBIT No. A-52
Witness: Parsons
Page 2
1923
I. C. C. Docket 15234
Railway Operating Revenues and E
Year Ended December 31, 19

Railroad	Average miles operated	Railway operating revenue	Railway operating expenses			
			M. of W. and S.	M. of E.	Transportation	Other expenses
Chicago & Alton	1 050.40	$33 588 194	$4 558 105	$8 102 878	$11 393 592	$1 334 654
C. & E. I.	945.13	28 405 408	3 144 876	8 694 382	10 948 327	1 491 527
C. & N. W.	8 462.53	160 425 965	23 368 264	35 920 062	66 508 611	6 710 594
C. B. & Q.	9 401.41	171 270 661	21 984 557	40 654 336	63 395 808	8 255 678
C. G. W.	1 496.06	25 723 707	3 791 296	5 238 113	10 806 237	1 595 370
C. M. & St. P.	11 010.74	169 628 338	23 063 613	38 375 029	66 545 638	7 014 948
C. St. P. M. & O.	1 749.19	28 363 234	3 653 661	5 678 518	12 818 667	1 365 301
Illinois Central	4 840.25	165 626 982	24 406 198	39 445 189	61 989 250	6 588 594
M. & St. L.	1 649.90	16 524 961	2 316 413	3 809 660	7 325 680	837 038
M. St. P. & S. S. M.	4 396.49	49 345 337	6 466 681	8 667 124	20 282 439	2 198 890
Q. O. & K. C.	250.84	1 250 380	427 375	239 179	603 624	36 569
Wabash	2 476.59	66 617 636	9 501 515	13 884 271	24 997 690	3 650 019
A. T. & S. F.	8 956.97	203 311 792	27 684 154	48 967 937	62 309 672	6 725 509
B. S. L. & W.	118.75	2 532 908	312 660	301 938	771 979	156 319
C. R. I. & G.	461.23	5 774 646	877 737	885 778	2 601 534	352 194
C. R. I. & P.	7 635.13	124 628 440	14 791 715	28 267 888	51 501 773	5 711 517
Ft. W. & D. C.	456.31	9 625 851	959 563	2 138 437	2 941 729	617 900
G. H. & S. A.	1 379.85	23 982 900	4 446 145	5 316 805	9 139 120	1 402 878
G. C. & S. F.	1 908.89	25 604 899	4 421 318	5 926 951	8 369 942	1 227 812
H. & S.	40.74	777 335	81 251	94 467	225 031	31 474
H. & T. C.	923.17	14 693 191	2 813 449	2 775 363	5 031 405	822 832
H. E. & W. T.	191.60	3 194 943	781 572	649 394	1 229 390	139 421
I. G. N.	1 159.50	15 806 608	2 965 152	2 742 532	5 879 493	955 456
K. C. M. & O.	272.20	1 846 240	441 168	347 544	864 842	126 353
K. C. M. & O. of Tex.	465.75	1 815 888	310 448	391 388	857 864	130 530
K. C. S.	767.60	19 594 128	3 235 944	4 010 928	6 636 150	1 302 958
K. O. & G.	314.42	2 489 370	486 644	287 319	979 246	227 749

EXHIBIT No. A-52

Witness: Parsons

Page 2

1923

I. C. C. Docket 15234

ilway Operating Revenues and Expenses

Year Ended December 31, 1923

r operating expenses

Transportation	Other expenses	Total	Net operating revenue	Operating ratio	Railway tax accruals	Uncollectible railway revenue	Railway operating income	Ratio (a)
11 393 592	$1 334 654	$25 389 229	$8 198 965	75.59%	$1 275 521	$8 612	$6 914 832	79.41%
10 948 327	1 491 527	24 279 112	4 126 296	85.47	1 555 000	7 866	2 563 430	90.98
66 508 611	6 710 594	132 507 531	27 918 434	82.60	9 277 409	64 133	18 576 892	88.42
63 395 808	8 255 678	134 290 379	36 980 282	78.41	9 268 055	57 456	27 654 771	83.85
10 806 237	1 595 370	21 431 016	4 292 691	83.31	856 145	3 330	3 423 216	86.65
66 545 638	7 014 948	134 999 226	34 629 110	79.59	8 614 180	3 112	26 011 818	84.67
12 818 667	1 365 301	23 516 147	4 847 007	82.91	1 598 503	12 203	3 236 381	88.59
61 989 250	6 588 594	132 429 231	33 197 751	79.96	9 672 915	24 053	23 500 783	85.81
7 325 680	837 038	14 288 791	2 236 170	86.47	790 884	2 489	1 442 797	91.27
20 282 439	2 198 890	37 615 134	11 730 203	76.23	2 956 439	27 127	8 746 637	82.27
603 624	36 569	1 306 747	Def 56 367	104.51	52 337	Cr 325	Def 108 379	108.67
24 997 690	3 650 019	52 033 495	14 584 141	78.11	2 470 800	16 384	12 096 957	81.84
62 309 672	6 725 509	145 687 272	57 624 520	71.66	18 983 092	95 534	38 545 894	81.04
771 979	156 319	1 542 896	990 012	60.91	78 491	2 107	909 414	64.10
2 601 534	352 194	4 717 243	1 057 403	81.69	88 285	1 041	968 077	83.24
51 501 773	5 711 517	100 272 893	24 355 547	80.46	5 512 350	15 961	18 827 236	84.89
2 941 729	617 900	6 657 629	2 968 222	69.16	458 887	7 543	2 501 792	74.01
9 139 120	1 402 878	20 304 948	3 677 952	84.66	755 438	12 837	2 909 677	87.87
8 369 942	1 227 812	19 946 023	5 658 876	77.90	999 314	13 318	4 646 244	81.85
225 031	31 474	432 223	345 112	55.60	53 733	.....	291 379	62.52
5 031 405	822 832	11 443 049	3 250 142	77.88	645 623	15 748	2 588 771	82.38
1 229 390	139 421	2 799 777	395 166	87.63	122 669	2 328	270 169	91.54
5 879 493	955 456	12 542 633	3 263 975	79.35	484 718	616	2 778 641	82.42
864 842	126 353	1 779 907	66 333	96.41	Cr 34 443	1 088	99 688	94.60
857 864	130 530	1 690 230	125 658	93.08	5 919	2 243	117 496	93.53
636 150	1 302 958	15 185 980	4 408 148	77.50	1 256 087	3 228	3 148 833	83.93
979 246	227 749	1 980 958	508 412	79.58	125 293	130	382 989	84.62

K. C. M. & O. of Tex.	465.75	1 815 888	310 448	391 388	857 864	130 530
K. C. S.	767.60	19 594 128	3 235 944	4 010 928	6 636 150	1 302 958
K. O. & G.	314.42	2 489 370	486 644	287 319	979 246	227 749
K. O. & G. of Tex.	9.10	147 685	19 744	33 969	57 324	19 732
L. R. & N. Co.	343.67	3 892 094	755 597	698 736	1 537 804	256 355
L. R. & N. Co. of Tex.	206.08	1 019 399	168 212	122 301	450 924	70 308
La. Western	207.74	4 663 296	759 352	871 795	1 353 943	375 321
M. K. T.	1 800.75	34 650 648	4 200 807	10 444 121	9 986 545	1 831 742
M. K. T. of Tex.	1 477 58	21 076 414	3 149 140	4 130 768	8 263 549	1 339 701
Mo. Pac.	7 235.72	114 607 948	16 464 182	30 324 816	45 101 684	6 049 284
M. L. & T.	400.67	9 147 416	1 761 752	2 072 869	3 557 168	600 896
N. O. T. & M.	191.22	2 970 623	530 063	622 995	718 774	249 041
P. H. & S. F.	858.37	8 880 456	1 374 486	2 681 285	2 619 817	293 989
St. L. B. & M.	550.22	6 147 806	877 563	770 820	1 558 058	383 107
St. L. S. F.	4 751.21	85 627 607	11 470 385	17 709 031	30 351 687	3 009 707
St. L. S. F. & Tex.	134.41	1 728 716	335 089	283 369	645 279	137 085
St. L. S. W.	968.65	20 842 524	2 479 154	3 911 963	5 228 730	1 309 255
St. L. S. W. of Tex.	807.20	8 708 596	1 772 743	2 886 363	3 755 814	646 191
S. A. & A. P.	739.36	6 455 496	1 125 183	1 561 396	2 344 414	390 606
T. & Ft. S.	81.08	2 890 971	311 697	263 937	765 495	181 702
Texas & N. O.	507.95	9 068 850	2 617 113	2 244 950	3 406 876	508 905
Texas & Pacific	1 952.74	32 592 489	4 571 382	7 273 178	11 485 278	1 651 820
V. S. & P.	184.21	4 460 579	689 781	802 036	1 439 135	332 252

x—Report for nine months ended December 31, 1923.

(a)—Ratio of the sum of Railway Operating Expenses, Railway Tax Accruals and Uncollectible Railway Revenue to Railwa

857 864	130 530	1 690 230	125 658	93.08	5 919	2 243	117 496	93.53
6 636 150	1 302 958	15 185 980	4 408 148	77.50	1 256 087	3 228	3 148 833	83.93
979 246	227 749	1 980 958	508 412	79.58	125 293	130	382 989	84.62
57 324	19 732	130 769	16 916	88.54	2 826	.....	14 090	90.46
1 537 804	256 355	3 268 492	623 602	83.98	223 202	4 095	396 305	89.82
450 924	70 308	811 745	207 654	79.63	36 392	.....	171 262	83.20
1 353 943	375 321	3 360 411	1 302 885	72.06	350 371	967	951 547	79.59
9 986 545	1 831 742	26 463 215	8 187 433	76.37	1 958 781	15 537	6 213 115	82.07
8 263 549	1 339 701	16 883 158	4 193 256	80.11	594 931	10 401	3 587 924	82.98
45 101 684	6 049 284	97 939 966	16 667 982	85.46	4 430 590	51 975	12 185 417	89.37
3 557 168	600 896	7 992 685	1 154 731	87.38	584 989	2 494	567 248	93.80
718 774	249 041	2 120 873	849 750	71.39	410 920	2 803	436 027	85.32
2 619 817	293 989	6 969 577	1 910 879	78.48	270 834	3 318	1 636 727	81.57
1 558 058	383 107	3 589 548	2 558 258	58.39	257 188	11 397	2 289 673	62.76
30 351 687	3 009 707	62 540 810	23 086 797	73.04	4 164 285	29 191	18 893 321	77.94
645 279	137 085	1 400 822	327 894	81.03	25 566	961	301 367	82.57
5 228 730	1 309 255	12 929 102	7 913 422	62.03	1 255 189	3 974	6 654 259	68.07
3 755 814	646 191	9 061 111	Def 352 515	104.05	338 423	1 880	Def 692 818	107.96
2 344 414	390 606	5 421 599	1 033 897	83.98	190 590	5 405	837 902	87.02
765 495	181 702	1 522 831	1 368 140	52.68	179 821	7 082	1 181 237	59.14
3 406 876	508 905	8 777 844	291 006	96.79	346 510	4 425	Def 59 929	100.66
11 485 278	1 651 820	24 981 658	7 610 831	76.65	1 430 000	27 832	6 152 999	81.12
1 439 135	332 252	3 263 204	1 197 375	73.15	349 588	3 776	844 011	81.08

ible Railway Revenue to Railway Operating Revenue.

1923

I. C. C. Docket 15234

Freight Revenues and Expenses

Year Ended December 31, 1923

Railroad	Freight railroad	Operating expenses assigned to freight service: M. of W. and S.	M. of E.	Transportation	Other expenses	Total	Net freight revenue	Operating ratio freight
Chicago & Alton	$24 027 397	$3 470 270	$5 868 696	$8 518 600	$616 644	$18 474 210	$5 553 187	76.88%
C. & E. I.	21 243 932	2 395 897	7 149 466	8 493 438	979 460	19 018 261	2 225 671	89.52
C. & N. W.	113 092 826	16 209 035	27 100 351	47 258 320	3 935 456	94 503 162	18 589 664	83.56
C. B. & Q.	126 433 098	16 778 778	32 477 033	47 939 724	4 421 763	101 617 298	24 815 800	80.37
C. G. W.	19 259 353	2 872 104	4 009 911	8 166 145	942 437	15 990 597	3 268 756	83.03
C. M. & St. P.	127 953 106	17 585 569	29 232 726	50 067 305	3 751 220	100 636 820	27 316 286	78.65
C. St. P. M. & O.	20 074 017	2 660 033	4 355 256	9 689 607	847 762	17 552 658	2 521 359	87.44
Illinois Central	127 081 546	18 594 457	31 443 164	48 646 544	3 886 313	102 570 478	24 511 068	80.71
M. & St. L.	14 023 698	1 868 770	3 120 426	5 880 618	700 716	11 570 530	2 453 168	82.51
M. St. P. & S. S. M.	37 604 190	4 805 787	6 621 773	15 393 754	1 365 439	28 186 753	9 417 437	74.96
Q. O. & K. C.	872 054	291 721	170 757	413 905	25 602	901 985	d 29 931	103.43
Wabash	51 698 168	7 453 960	10 827 716	19 938 846	2 418 784	40 639 306	11 058 862	78.61
A. T. & S. F.	139 655 477	19 090 860	37 106 714	42 890 101	3 714 769	102 802 444	36 853 033	73.61
B. S. L. & W.	2 080 464	231 362	228 733	477 875	108 236	1 046 206	1 034 258	50.28
C. R. I. & G.	4 408 132	660 895	736 958	1 950 262	233 232	3 581 347	826 785	81.24
C. R. I. & P.	88 701 194	10 454 166	21 596 477	37 392 776	3 104 338	72 547 757	16 153 437	81.79
Ft. W. & D. C.	6 865 281	705 273	1 644 707	2 182 151	401 212	4 933 343	1 931 938	71.86
C. H. & S. A.	17 432 184	3 442 709	3 929 335	7 079 377	615 499	15 066 920	2 365 264	86.43
G. C. & S. F.	19 790 688	3 320 870	5 040 224	6 377 285	820 302	15 558 681	4 232 007	78.62
H. & S.	631 136	f 65 968	f 76 698	f 182 702	f 25 554	f 350 922	280 214	55.60
H. & T. C.	10 416 412	1 988 900	2 169 261	3 699 335	480 104	8 337 600	2 078 812	80.04
H. E. & W. T.	2 472 901	610 134	461 376	1 002 261	93 489	2 167 260	305 641	87.64
I. G. N.	11 607 925	2 134 010	1 914 639	4 439 914	575 471	9 064 034	2 543 891	78.09
K. C. M. & O.	1 642 780	372 846	285 629	699 353	114 065	1 471 893	170 887	89.60
K. C. M. & O. of Tex.	1 590 306	258 193	232 896	714 735	217 267	1 423 091	167 215	89.49
K. C. S.	15 664 191	2 671 469	3 371 413	5 352 911	1 070 521	12 466 314	3 197 877	79.58
K. O. & G.	2 262 943	406 316	246 204	825 315	206 000	1 683 835	579 108	74.41
K. O. & G. of Tex.	141 433	f 18 909	f 32 532	f 54 899	f 18 897	f 125 237	16 196	88.55
L. R. & N. Co.	3 310 158	582 937	558 133	1 199 392	208 913	2 549 375	760 783	77.02

K. C. S.	15 664 191	2 671 469	3 371 413	5 352 911	1 070 521	12 466 314	3 197 877	79.58
K. O. & G.	2 262 943	406 316	246 204	825 315	206 000	1 683 835	579 108	74.41
K. O. & G. of Tex.	141 433 f	18 909 f	32 532 f	54 899 f	18 897 f	125 237	16 196	88.55
L. R. & N. Co.	3 310 158	582 937	558 133	1 199 392	208 913	2 549 375	760 783	77.02
xL. R. & N. Co. of Tex.	818 657	120 138	78 460	332 983	53 103	584 684	233 973	71.42
La. Western	3 256 345	504 497	665 725	900 270	201 438	2 271 930	984 415	69.77
M. K. T.	20 522 029	3 017 706	6 303 113	7 307 362	2 158 593	18 786 774	1 735 255	91.54
M. K. T. of Tex.	13 874 191	2 113 929	2 772 021	5 740 866	765 150	11 391 966	2 482 225	82.10
Mo. Pac.	85 961 414	12 464 315	22 453 047	34 020 808	3 878 665	72 816 835	13 144 579	84.70
M. L. & T.	6 625 264	1 263 491	1 597 978	2 701 661	349 453	5 912 583	712 681	89.24
N. O. T. & M.	2 445 603	386 490	490 403	552 674	181 202	1 610 769	834 834	65.86
P. H. & S. F.	6 863 994	1 070 960	2 344 213	1 996 568	209 636	5 621 377	1 242 617	81.83
St. L. B. & M.	4 276 597	568 092	457 634	939 270	257 816	2 222 812	2 053 785	51.97
St. L. S. F.	59 468 121	8 428 913	13 016 096	22 315 305	2 029 036	45 789 350	13 678 771	76.99
St. L. S. F. & Tex.	1 487 285	267 652	229 437	527 713	100 005	1 124 807	362 478	75.63
St. L. S. W.	17 838 664	1 988 165	3 192 639	4 195 097	1 072 156	10 448 057	7 390 607	58.57
St. L. S. W. of Tex.	6 757 406	1 412 590	2 332 473	2 875 758	507 528	7 128 349 d	370 943	105.49
S. A. & A. P.	5 080 904	834 973	1 217 026	1 649 086	295 910	3 996 995	1 083 909	78.67
T. & Ft. S.	2 422 071	268 197	224 475	635 650	148 957	1 277 279	1 144 792	52.73
Texas & N. O.	6 413 628	1 658 606	1 726 656	2 548 164	272 090	6 205 516	208 112	96.76
Texas & Pacific	22 482 492	3 195 476	5 237 331	8 165 639	766 246	17 364 692	5 117 800	77.23
V. S. & P.	2 940 793	441 370	507 925	969 356	249 636	2 168 287	772 506	73.73

d—Deficit.
f—Separation of Operating Expenses not made by Class II Carriers. Proportion of each class of Operating Expenses assigned to Freight Service in ratio of Freight Revenue to Total Operating Revenue.
x—Report for nine months ended December 31, 1923.

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Tons and Ton-miles Revenue, Freight, Car Miles, and Averages per Ton per Ton-mile and p

Year Ended December 31, 1923

Railroad	Freight tonnage and averages							Averages p	
	Tons revenue, freight	Ton-miles revenue, freight	Average haul, miles	Revenue per ton	Revenue P. T. M., mills	Freight car-miles		Tons revenue, freight	Rev ce
						Loaded	Empty		
Chicago & Alton	13 499 429	2 435 688 198	180	$1.791	9.86	96 002 583	53 752 972	25.4	25
C. & E. I.	14 697 968	2 304 816 800	157	1.445	9.22	76 572 610	41 699 220	30.1	27
C. & N. W.	58 207 915	9 248 615 383	159	1.943	12.23	451 604 299	251 213 685	20.5	25
C. B. & Q.	43 483 603	12 690 384 346	292	2.908	9.96	554 652 266	321 081 404	22.9	22
C. G. W.	6 722 786	1 969 074 388	293	2.865	9.78	95 681 780	43 384 562	20.6	20
C. M. & St. P.	51 314 300	11 922 243 644	232	2.494	10.73	542 897 323	293 352 161	21.9	2
C St. P. M. & O.	10 511 198	1 612 951 567	153	1.910	12.45	77 3[illegible]4 496	36 508 995	20.9	2
Illinois Central	55 110 674	15 069 986 030	273	2.306	8.43	601 667 321	336 983 488	25.0	2
M. & St. L.	7 311 189	1 276 675 232	175	1.918	10.98	51 944 395	22 587 418	24.6	2
M. St. P. & S. S. M.	16 758 404	3 515 132 603	209	2.244	10.69	153 276 114	64 746 297	22.9	2
Q. O. & K. C.	566 550	54 456 926	96	1.539	16.01	2 483 454	1 208 969	21.9	3
Wabash	18 739 365	4 673 211 597	249	2.759	11.06	226 082 574	84 575 265	20.7	2
A. T. & S. F.	33 955 420	9 889 482 823	291	4.112	14.12	551 040 978	293 636 164	17.9	2
B. S. L. & W.	1 756 554	157 051 000	89	1.184	13.25	6 214 507	4 027 507	23.7	3
C. R. I. & G.	3 607 015	293 947 529	81	1.222	14.99	14 615 453	9 101 415	20.1	3
C. R. I. & P.	28 742 448	7 181 491 279	250	3.086	12.35	372 359 615	184 772 723	19.3	2
Ft. W. & D. C.	2 900 189	469 001 526	162	2.367	14.64	21 473 671	11 000 347	21.8	3
G. H. & S. A.	6 916 861	1 683 755 747	243	2.520	10.35	78 690 652	37 130 779	21.4	2
G. C. & S. F.	7 847 179	1 830 541 606	233	2.522	10.81	78 657 490	40 290 620	23.3	2
H. & S.	693 043	26 719 896	39	.911	23.62	1 191 575	431 135	22.4	5
H. & T. C.	3 823 945	642 201 398	168	2.724	16.22	31 441 215	15 594 174	20.4	3
H. E. & W. T.	1 565 888	134 153 838	86	1.579	18.43	6 904 776	3 431 083	19.4	3
I. G. N.	4 170 323	677 805 666	163	2.783	17.13	35 570 476	15 660 723	19.1	3
K. C. M. & O.	743 186	141 658 955	191	2.210	11.59	6 498 089	2 736 097	21.8	2
K. C. M. & O. of Tex.	789 916	102 709 244	130	2.013	15.48	5 700 415	2 270 131	18.0	2
K. C. S.	5 598 824	1 538 722 633	275	2.798	10.18	59 206 949	22 403 184	26.0	2
K. O. & G.	1 656 447	165 035 000	100	1.366	13.71	6 055 815	3 067 269	27.3	3

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nd Ton-miles Revenue, Freight, Car Miles, and Averages per Ton per Ton-mile and per Car-mile

Year Ended December 31, 1923

ge and averages						Averages per loaded freight car-mile				Freight revenue and expenses per 1,000,000 net ton-miles		
s	Average haul, miles	Revenue per ton	Revenue P. T. M., mills	Freight car-miles		Tons revenue, freight	Revenue, cents	Expenses, cents	Net revenue, cents			
				Loaded	Empty					Revenue	Expenses	Net revenue
198	180	$1.791	9.86	96 002 583	53 752 972	25.4	25.2	19.2	6.0	$9 865	$7 585	$2 280
800	157	1.445	9.22	76 572 610	41 699 220	30.1	27.7	24.8	2.9	9 217	8 251	966
883	159	1.943	12.23	451 604 299	251 213 685	20.5	25.0	20.9	4.1	12 228	10 218	2 010
346	292	2.908	9.96	554 652 266	321 081 404	22.9	22.8	18.3	4.5	9 963	8 007	1 956
388	293	2.865	9.78	95 681 780	43 384 562	20.6	20.1	16.7	3.4	9 781	8 121	1 660
644	232	2.494	10.73	542 897 323	293 352 161	21.9	23.6	18.5	5.1	10 732	8 441	2 291
567	153	1.910	12.45	77 334 496	36 508 995	20.9	26.0	22.7	3.3	12 446	10 882	1 564
630	273	2.306	8.43	601 667 321	336 983 48[illegible]	25.0	21.1	17.0	4.1	8 433	6 806	1 627
232	175	1.918	10.98	51 944 395	22 587 418	24.6	27.0	22.3	4.7	10 985	9 063	1 922
603	209	2.244	10.69	153 276 114	64 746 297	22.9	24.5	18.4	6.1	10 698	8 019	2 679
926	96	1.539	16.01	2 483 454	1 208 969	21.9	35.1	36.3	d 1.2	16 014	16 563	d 549
597	249	2.759	11.06	226 082 574	84 575 265	20.7	22.8	17.9	4.9	11 063	8 696	2 367
823	291	4.112	14.12	551 040 978	293 636 164	17.9	25.3	18.7	6.6	14 122	10 395	3 727
000	89	1.184	13.25	6 214 507	4 027 507	23.7	33.5	16.8	16.7	13 246	6 662	6 584
529	81	1.222	14.99	14 615 453	9 101 415	20.1	30.2	24.5	5.7	14 996	12 184	2 812
279	250	3.086	12.35	372 359 615	184 772 723	19.3	23.8	19.4	4.4	12 351	10 102	2 249
526	162	2.367	14.64	21 473 671	11 000 347	21.8	32.0	23.0	9.0	14 638	10 519	4 119
747	243	2.520	10.35	78 690 652	37 130 779	21.4	22.1	19.1	3.0	10 353	8 948	1 405
306	233	2.522	10.81	78 657 490	40 290 620	23.3	25.1	19.8	5.3	10 811	8 499	2 312
396	39	.911	23.62	1 191 575	431 135	22.4	52.9	29.4	23.5	23 621	13 133	10 488
908	168	2.724	16.22	31 441 215	15 594 174	20.4	33.1	26.5	6.6	16 220	12 983	3 237
388	86	1.579	18.43	6 904 776	3 431 083	19.4	35.8	31.4	4.4	18 433	16 155	2 278
166	162	2.783	17.13	35 570 476	15 660 723	19.1	32.6	25.4	7.2	17 126	13 373	3 753
165	191	2.210	11.59	6 498 089	2 736 097	21.8	25.3	22.6	2.7	11 597	10 390	1 207
814	130	2.013	15.48	5 700 415	2 270 131	18.0	27.9	24.9	3.0	15 484	13 856	1 628
133	275	2.798	10.18	59 206 949	22 403 184	26.0	26.5	21.1	5.4	10 179	8 101	2 078
190	100	1.366	13.71	6 055 815	3 067 269	27.3	37.3	27.8	9.5	13 712	10 203	3 509
185	9	.341	37.45	149 470	53 578	25.3	94.6	83.8	10.8	37 450	33 162	4 288

K. C. S.	5 598 824	1 538 722 633	275	2.798	10.18	59 206 949	22 403 184	26.0
K. O. & G.	1 656 447	165 035 000	100	1.366	13.71	6 055 815	3 067 269	27.3
K. O. & G. of Tex.	415 006	3 776 555	9	.341	37.45	149 470	53 578	25.3
L. R. & N. Co.	1 811 538	220 618 586	122	1.827	15.00	9 338 647	4 877 693	23.6
xL. R. & N. Co. of Tex.	559 833	59 636 000	107	1.462	13.73	2 712 414	1 327 254	22.0
La. Western	3 908 446	263 019 920	67	.823	12.38	10 434 066	5 920 666	25.2
M. K. T.	7 493 130	1 913 767 950	255	2.739	10.72	95 951 521	55 602 200	19.9
M. K. T. of Tex.	5 858 189	868 311 538	148	2.368	15.98	47 172 775	25 264 661	18.4
Mo. Pac.	32 715 582	7 416 475 588	227	2.628	11.59	339 810 165	153 270 426	21.8
M. L. & T.	4 135 022	446 376 289	108	1.602	14.84	18 578 513	8 674 049	24.0
N. O. T. & M.	1 921 903	197 208 000	103	1.272	12.40	7 759 473	3 999 469	25.4
P. H. & S. F.	3 034 227	603 184 881	199	2.262	11.38	38 777 964	19 407 743	15.5
St. L. B. & M.	1 268 294	248 375 811	196	3.372	17.22	12 524 760	8 583 573	19.8
St. L. S. F.	23 056 703	4 317 501 865	187	2.579	13.77	200 782 735	100 093 937	21.5
St. L. S. F. & Tex.	1 251 936	73 089 066	58	1.188	20.35	3 497 096	1 983 530	20.9
St. L. S. W.	4 490 123	1 310 105 235	292	3.973	13.62	64 274 036	24 002 613	20.4
St. L. S. W. of Tex.	3 083 585	387 663 920	126	2.191	17.43	20 606 662	12 105 728	18.8
S. A. & A. P.	1 608 866	217 756 410	135	3.158	23.33	13 088 695	6 876 848	16.6
T. & Ft. S.	4 395 086	145 291 756	33	.551	16.67	4 836 633	2 493 666	30.0
Texas & N. O.	5 437 273	469 853 254	86	1.800	13.65	19 104 091	11 406 684	24.6
Texas & Pacific	8 892 982	1 419 938 241	160	2.528	15.83	77 490 665	36 966 966	18.3
V. S. & P.	2 000 530	165 460 895	83	1.470	17.77	7 313 038	3 444 205	22.6

d—Deficit.
x—Report for nine months ended December 31, 1923.

275	2.798	10.18	59 206 949	22 403 184	26.0	26.5	21.1	5.4	10 179	8 101	2 078
100	1.366	13.71	6 055 815	3 067 269	27.3	37.3	27.8	9.5	13 712	10 203	3 509
9	.341	37.45	149 470	53 578	25.3	94.6	83.8	10.8	37 450	33 162	4 288
122	1.827	15.00	9 338 647	4 877 693	23.6	35.4	27.3	8.1	15 004	11 556	3 448
107	1.462	13.73	2 712 414	1 327 254	22.0	30.2	21.6	8.6	13 728	9 805	3 923
67	.823	12.38	10 434 066	5 920 666	25.2	31.2	21.8	9.4	12 381	8 638	3 743
255	2.739	10.72	95 951 521	55 602 200	19.9	21.4	19.6	1.8	10 723	9 816	907
148	2.368	15.98	47 172 775	25 264 661	18.4	29.3	24.1	5.2	15 978	13 120	2 858
227	2.628	11.59	339 810 165	153 270 426	21.8	25.2	21.4	3.8	11 591	9 818	1 773
108	1.602	14.84	18 578 513	8 674 049	24.0	35.7	31.8	3.9	14 842	13 246	1 596
103	1.272	12.40	7 759 473	3 999 469	25.4	31.5	20.7	10.8	12 401	8 167	4 234
199	2.262	11.38	38 777 964	19 407 743	15.5	17.7	14.5	3.2	11 380	9 319	2 061
196	3.372	17.22	12 524 760	8 583 573	19.8	34.1	17.7	16.4	17 218	8 949	8 269
187	2.579	13.77	200 782 735	100 093 937	21.5	29.6	22.8	6.8	13 774	10 605	3 169
58	1.188	20.35	3 497 096	1 983 530	20.9	42.5	32.1	10.4	20 349	15 390	4 959
292	3.973	13.62	64 274 036	24 002 613	20.4	27.8	16.3	11.5	13 616	7 975	5 641
126	2.191	17.43	20 606 662	12 105 728	18.8	32.8	34.6	d 1.8	17 431	18 388	d 957
135	3.158	23.33	13 088 695	6 876 848	16.6	38.8	30.5	8.3	23 333	18 356	4 978
33	.551	16.67	4 836 633	2 493 666	30.0	50.0	26.4	23.6	16 670	8 791	7 879
86	1.800	13.65	19 104 091	11 406 684	24.6	33.6	32.5	1.1	13 650	13 207	443
160	2.528	15.83	77 490 665	36 966 966	18.3	29.0	22.4	6.6	15 833	12 229	3 604
83	1.470	17.77	7 313 038	3 444 205	22.6	40.2	29.7	10.5	17 774	13 105	4 669

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Averages per Mile of Road

Year Ended December 31, 1923

	Ton-miles revenue, freight	Operating revenues	Railway Operating Expenses: M of W. and S.	M. of E.	Transportation	Other expenses	Total	Net operating revenue	Railway operating income	Freight revenue	Op ex f
Chicago & Alton	2 318 820	$31 977	$4 339	$7 714	$10 847	$1 271	$24 171	$7 806	$6 583	$22 875	$1
C. & E. I.	2 438 624	30 055	3 327	9 199	11 584	1 579	25 689	4 366	2 712	22 477	2
C. &. N. W.	1 092 890	18 957	2 761	4 245	7 859	793	15 658	3 299	2 195	13 364	1
C. B. & Q.	1 349 838	18 218	2 338	4 324	6 744	878	14 284	3 924	2 942	13 448	1
C. G. W.	1 316 173	17 194	2 534	3 502	7 223	1 066	14 325	2 869	2 295	12 873	1
C. M. & St. P.	1 082 787	15 406	2 095	3 485	6 044	637	12 261	3 145	2 362	11 620	
C. St. P. M. & O.	922 113	16 215	2 089	3 246	7 328	781	13 444	2 771	1 850	11 476	1
Illinois Central	3 113 473	34 219	5 042	8 149	12 808	1 361	27 360	6 859	4 855	26 255	2
M. & St. L.	773 789	10 016	1 404	2 309	4 440	507	8 660	1 356	874	8 500	
M. St. P. & S. S. M.	799 531	11 224	1 471	1 971	4 613	500	8 555	2 669	1 990	8 553	
Q. O. & K. C.	217 098	4 985	1 704	954	2 405	146	5 209	d 224	d 432	3 476	
Wabash	1 886 954	26 899	3 837	5 606	10 094	1 473	21 010	5 889	4 885	20 875	
A. T. & S. F.	1 104 110	22 699	3 091	5 467	6 957	751	16 266	6 433	4 303	15 592	
B. S. L. & W.	1 322 535	21 330	2 633	2 543	6 501	1 316	12 993	8 337	7 658	17 520	
C. R. I. & G.	637 312	12 520	1 903	1 920	5 641	764	10 228	2 292	2 099	9 557	
C. R. I. & P.	940 585	16 323	1 937	3 702	6 746	748	13 133	3 190	2 466	11 617	
Ft. W. & D. C.	1 027 813	21 095	2 103	4 686	6 447	1 354	14 590	6 505	5 483	15 045	
G. H. & S. A.	1 220 245	17 381	3 222	3 853	6 623	1 017	14 715	2 666	2 109	12 633	
G. C. & S. F.	958 956	13 413	2 316	3 105	4 385	643	10 449	2 964	2 434	10 368	
H. & S.	655 864	19 080	1 994	2 319	5 524	773	10 610	8 470	7 152	15 492	
H. & T. C.	695 648	15 916	3 048	3 006	5 450	891	12 395	3 521	2 804	11 283	
H. E. & W. T.	700 176	16 675	4 079	3 389	6 416	728	14 612	2 063	1 410	12 907	
I. G. N.	584 567	13 632	2 557	2 365	5 071	824	10 817	2 815	2 396	10 011	
K. C. M. & O.	520 422	6 783	1 621	1 277	3 177	464	6 539	244	366	6 035	
K. C. M. & O. of Tex.	220 524	3 899	667	840	1 842	280	3 629	270	252	3 415	
K. C. S.	2 004 589	25 526	4 218	5 225	8 645	1 696	19 784	5 742	4 102	20 407	
K. O. & G.	524 887	7 917	1 548	914	3 114	724	6 300	1 617	1 218	7 197	
K. O. & G. of Tex.	415 006	16 229	2 170	3 733	6 299	2 168	14 370	1 859	1 548	15 542	
L. R. & N. Co.	641 949	11 325	2 257	2 033	4 475	746	9 511	1 814	1 153	9 632	
L. R. & M. Co. of Tex.	289 383	4 947	816	593	2 188	342	3 939	1 008	831	3 973	

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Averages per Mile of Road

Year Ended December 31, 1923

	Ton-miles revenue, freight	Operating revenues	Railway Operating Expenses					Net operating revenue	Railway operating income	Freight revenue	Operating expenses, freight	Net freight revenue
			M of W. and S.	M. of E.	Transportation	Other expenses	Total					
.....	2 318 820	$31 977	$4 339	$7 714	$10 847	$1 271	$24 171	$7 806	$6 583	$22 875	$17 588	$5 287
.....	2 438 624	30 055	3 327	9 199	11 584	1 579	25 689	4 366	2 712	22 477	20 122	2 355
.....	1 092 890	18 957	2 761	4 245	7 859	793	15 658	3 299	2 195	13 364	11 167	2 197
.....	1 349 838	18 218	2 338	4 324	6 744	878	14 284	3 924	2 942	13 448	10 809	2 639
.....	1 316 173	17 194	2 534	3 502	7 223	1 066	14 325	2 869	2 295	12 873	10 688	2 185
.....	1 082 787	15 406	2 095	3 485	6 044	637	12 261	3 145	2 362	11 620	9 139	2 481
.....	922 113	16 215	2 089	3 246	7 328	781	13 444	2 771	1 850	11 476	10 035	1 441
.....	3 113 473	34 219	5 042	8 149	12 808	1 361	27 360	6 859	4 855	26 255	21 191	5 064
.....	773 789	10 016	1 404	2 309	4 440	507	8 660	1 356	874	8 500	7 013	1 487
.....	799 531	11 224	1 471	1 971	4 613	500	8 555	2 669	1 990	8 553	6 411	2 142
.....	217 098	4 985	1 704	954	2 405	146	5 209	d 224	d 432	3 476	3 605	d 129
.....	1 886 954	26 899	3 837	5 606	10 094	1 473	21 010	5 889	4 885	20 875	16 409	4 466
.....	1 104 110	22 699	3 091	5 467	6 957	751	16 266	6 433	4 303	15 592	11 477	4 115
.....	1 322 535	21 330	2 633	2 543	6 501	1 316	12 993	8 337	7 658	17 520	8 810	8 710
.....	637 312	12 520	1 903	1 920	5 641	764	10 228	2 292	2 099	9 557	7 765	1 792
.....	940 585	16 323	1 937	3 702	6 746	748	13 133	3 190	2 466	11 617	9 502	2 115
.....	1 027 813	21 095	2 103	4 686	6 447	1 354	14 590	6 505	5 483	15 045	10 812	4 233
.....	1 220 245	17 381	3 222	3 853	6 623	1 017	14 715	2 666	2 109	12 633	10 919	1 714
.....	958 956	13 413	2 316	3 105	4 385	643	10 449	2 964	2 434	10 368	8 151	2 217
.....	655 864	19 080	1 994	2 319	5 524	773	10 610	8 470	7 152	15 492	8 614	6 878
.....	695 648	15 916	3 048	3 006	5 450	891	12 395	3 521	2 804	11 283	9 031	2 252
.....	700 176	16 675	4 079	3 389	6 416	728	14 612	2 063	1 410	12 907	11 311	1 596
.....	584 567	13 632	2 557	2 365	5 071	824	10 817	2 815	2 396	10 011	7 817	2 194
.....	520 422	6 783	1 621	1 277	3 177	464	6 539	244	366	6 035	5 407	628
.....	220 524	3 899	667	840	1 842	280	3 629	270	252	3 415	3 055	360
.....	2 004 589	25 526	4 218	5 225	8 645	1 696	19 784	5 742	4 102	20 407	16 240	4 167
.....	524 887	7 917	1 548	914	3 114	724	6 300	1 617	1 218	7 197	5 355	1 842
....	415 006	16 229	2 170	3 733	6 299	2 168	14 370	1 859	1 548	15 542	13 762	1 780
....	641 949	11 325	2 257	2 033	4 475	746	9 511	1 814	1 153	9 632	7 418	2 214

K. O. & G.	524 887	7 917	1 548	914	3 114	724	6 300	1 617	1 218	7 197
K. O. & G. of Tex.	415 006	16 229	2 170	3 733	6 299	2 168	14 370	1 859	1 548	15 542
L. R. & N. Co.	641 949	11 325	2 257	2 033	4 475	746	9 511	1 814	1 153	9 632
xL. R. & M. Co. of Tex.	289 383	4 947	816	593	2 188	342	3 939	1 008	831	3 973
La. Western	1 266 101	22 448	3 655	4 197	6 518	1 806	16 176	6 272	4 580	15 675
M. K. T.	1 062 732	19 242	2 333	5 800	5 545	1 017	14 695	4 547	3 450	11 396
M. K. T. of Tex.	587 658	14 264	2 131	2 795	5 594	906	11 426	2 838	2 428	9 387
Mo. Pac.	1 024 970	15 839	2 275	4 191	6 233	836	13 535	2 304	1 684	11 880
M. L. & T.	1 114 075	22 830	4 397	5 173	8 878	1 500	19 948	2 882	1 416	16 535
N. O. T. & M.	1 031 315	15 535	2 772	3 258	3 759	1 302	11 091	4 444	2 280	12 790
P. H. & S. F.	702 710	10 346	1 601	3 124	3 052	343	8 120	2 226	1 907	7 996
St. L. B. & M.	451 412	11 173	1 595	1 401	2 832	696	6 524	4 649	4 161	7 773
St. L. S. F.	908 715	18 022	2 414	3 727	6 388	633	13 162	4 860	3 977	12 516
St. L. S. F. & Tex.	543 777	12 862	2 493	2 108	4 801	1 020	10 422	2 440	2 242	11 065
St. L. S. W.	1 352 506	21 517	2 559	4 039	5 398	1 352	13 348	8 169	6 870	18 416
St. L. S. W. of Tex.	480 258	10 789	2 196	3 575	4 653	801	11 225	d 436	d 858	8 371
S. A. & A. P.	294 493	8 731	1 522	2 112	3 171	528	7 333	1 398	1 133	6 872
T. & Ft. S.	1 791 956	35 656	3 844	3 255	9 441	2 241	18 781	16 875	14 569	29 873
Texas & N. O.	924 999	17 854	5 152	4 420	6 707	1 002	17 281	573	d 118	12 626
Texas & Pacific	727 151	16 691	2 341	3 725	5 883	846	12 793	3 898	3 151	11 513
V. S. & P.	898 219	24 215	3 744	4 354	7 813	1 804	17 715	6 500	4 582	15 964

d—Deficit.
x—Report for nine months ended December 31, 1923.

.....	524 887	7 917	1 548	914	3 114	724	6 300	1 617	1 218	7 197	5 355	1 842
.....	415 006	16 229	2 170	3 733	6 299	2 168	14 370	1 859	1 548	15 542	13 762	1 780
.....	641 949	11 325	2 257	2 033	4 475	746	9 511	1 814	1 153	9 632	7 418	2 214
Tex....	289 383	4 947	816	593	2 188	342	3 939	1 008	831	3 973	2 837	1 136
.....	1 266 101	22 448	3 655	4 197	6 518	1 806	16 176	6 272	4 580	15 675	10 936	4 739
.....	1 062 732	19 242	2 333	5 800	5 545	1 017	14 695	4 547	3 450	11 396	10 432	964
.....	587 658	14 264	2 131	2 795	5 594	906	11 426	2 838	2 428	9 387	7 709	1 678
.....	1 024 970	15 839	2 275	4 191	6 233	836	13 535	2 304	1 684	11 880	10 063	1 817
.....	1 114 075	22 830	4 397	5 173	8 878	1 500	19 948	2 882	1 416	16 535	14 757	1 778
.....	1 031 315	15 535	2 772	3 258	3 759	1 302	11 091	4 444	2 280	12 790	8 424	4 366
.....	702 710	10 346	1 601	3 124	3 052	343	8 120	2 226	1 907	7 996	6 626	1 370
.....	451 412	11 173	1 595	1 401	2 832	696	6 524	4 649	4 161	7 773	4 040	3 733
.....	908 715	18 022	2 414	3 727	6 388	633	13 162	4 860	3 977	12 516	9 637	2 879
.....	543 777	12 862	2 493	2 108	4 801	1 020	10 422	2 440	2 242	11 065	8 368	2 697
.....	1 352 506	21 517	2 559	4 039	5 398	1 352	13 348	8 169	6 870	18 416	10 786	7 630
.....	480 258	10 789	2 196	3 575	4 653	801	11 225	d 436	d 858	8 371	8 831	d 460
.....	294 493	8 731	1 522	2 112	3 171	528	7 333	1 398	1 133	6 872	5 406	1 466
.....	1 791 956	35 656	3 844	3 255	9 441	2 241	18 781	16 875	14 569	29 873	15 753	14 120
.....	924 999	17 854	5 152	4 420	6 707	1 002	17 281	573	d 118	12 626	12 217	409
.....	727 151	16 691	2 341	3 725	5 883	846	12 793	3 898	3 151	11 513	8 892	2 621
.....	898 219	24 215	3 744	4 354	7 813	1 804	17 715	6 500	4 582	15 964	11 771	4 193

nine months ended December 31, 1923.

Freight Train and Locomotive Miles (Including a Proportion of Mixed Train Miles and Mixed Train Locomotive Miles); Switching Lo
and Averages Per Freight Train Mile

Year Ended December 31, 1923

	Train and locomotive miles					Average per freight t				
						Car miles				
	Freight train miles	Freight train locomotive miles	Train switching locomotive miles	Yard switching locomotive miles	Train locomotive miles	Loaded	Empty	Total	Tons revenue freight	R
Chicago & Alton	4 111 186	4 248 966	185 671	1 713 751	1.033	23.3	13.1	36.4	592	
C. & E. I.	2 973 769	3 073 240	191 534	1 928 320	1.033	25.7	14.0	39.7	775	
C. & N. W.	20 252 229	21 421 250	788 805	10 054 008	1.058	22.3	12.4	34.7	457	
C. B. & Q.	20 766 654	22 597 476	894 498	9 167 747	1.088	26.7	15.5	42.2	611	
C. G. W.	3 350 218	3 950 135	232 168	1 338 543	1.179	28.6	12.9	41.5	587	
C. M. & St. P.	21 617 253	23 163 332	1 980 076	10 075 163	1.072	25.1	13.6	38.7	552	
C. St. P. M. & O.	4 047 915	4 541 382	543 668	1 861 694	1.121	19.1	9.0	28.1	398	
Illinois Central	22 142 834	22 819 117	970 604	8 653 388	1.031	27.1	15.2	42.3	681	
M. & St. L.	2 906 891	3 225 119	150 817	805 878	1.109	17.8	7.7	25.5	439	
M. St. P. & S. S. M.	6 734 955	6 967 285	319 105	2 274 934	1.034	22.8	9.6	32.4	522	
Q. O. & K. C.	194 719	234 603	3 174	28 612	1.205	12.8	6.2	19.0	280	
Wabash	7 685 009	8 253 995	447 183	3 449 892	1.074	29.4	11.0	40.4	608	
A. T. & S. F.	20 074 058	22 433 192	533 235	6 993 241	1.117	27.5	14.6	42.1	493	
B. S. L. & W.	197 006	202 094	13 414	26 365	1.025	31.5	20.4	51.9	797	
C. R. I. & G.	895 036	913 456	21 603	249 784	1.021	16.3	10.2	26.5	328	
C. R. I. & P.	17 228 974	17 840 203	1 099 978	6 061 378	1.035	21.6	10.7	32.3	417	
Ft. W. & D. C.	862 191	877 084	56 047	407 654	1.017	24.9	12.6	37.5	544	
G. H. & S. A.	3 295 455	3 325 669	160 722	714 192	1.007	23.9	11.3	35.2	511	
G. C. & S. F.	3 063 594	3 234 969	157 998	747 197	1.567	25.7	13.2	38.9	598	
H. & S.	88 088	88 898	6 382	31 022	1.009	13.5	4.9	18.4	303	
H. & T. C.	1 586 734	1 600 570	78 651	489 264	1.009	19.8	9.8	29.6	405	
H. E. & W. T.	541 079	547 715	110 619	29 961	1.012	10.8	6.3	17.1	248	
I. G. N.	1 744 955	1 781 027	129 622	799 953	1.021	20.4	9.0	29.4	388	
K. C. M. & O.	393 665	398 864	13 038	84 216	1.013	16.5	6.9	23.4	360	
K. C. M. & O. of Tex.	425 250	430 179	21 492	62 406	1.011	13.4	5.3	18.7	241	
K. C. S.	2 069 184	2 256 951	40 949	896 259	1.091	28.6	10.8	39.4	744	

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nd Locomotive Miles (Including a Proportion of Mixed Train Miles and Mixed Train Locomotive Miles); Switching Locomotive Miles, and Averages Per Freight Train Mile

Year Ended December 31, 1923

Train and locomotive miles					Average per freight train mile						
					Car miles						
Freight train miles	Freight train locomotive miles	Train switching locomotive miles	Yard switching locomotive miles	Train locomotive miles	Loaded	Empty	Total	Tons revenue freight	Revenue	Expenses	Net revenue
4 111 186	4 248 966	185 671	1 713 751	1.033	23.3	13.1	36.4	592	$5.84	$4.49	$1.35
2 973 769	3 073 240	191 534	1 928 320	1.033	25.7	14.0	39.7	775	7.14	6.40	.74
20 252 229	21 421 250	788 805	10 054 008	1.058	22.3	12.4	34.7	457	5.58	4.67	.91
20 766 654	22 597 476	894 498	9 167 747	1.088	26.7	15.5	42.2	611	6.09	4.89	1.20
3 350 218	3 950 135	232 168	1 338 543	1.179	28.6	12.9	41.5	587	5.74	4.77	.97
21 617 253	23 163 332	1 980 076	10 075 163	1.072	25.1	13.6	38.7	552	5.92	4.66	1.26
4 047 915	4 541 382	543 668	1 861 694	1.121	19.1	9.0	28.1	398	4.95	4.33	.62
22 142 834	22 819 117	970 604	8 653 388	1.031	27.1	15.2	42.3	681	5.73	4.63	1.10
2 906 891	3 225 119	150 817	805 878	1.109	17.8	7.7	25.5	439	4.82	3.98	.84
6 734 955	6 967 285	319 105	2 274 934	1.034	22.8	9.6	32.4	522	5.58	4.18	1.40
194 719	234 603	3 174	28 612	1.205	12.8	6.2	19.0	280	4.48	4.63	d .15
7 685 009	8 253 995	447 183	3 449 892	1.074	29.4	11.0	40.4	608	6.73	5.29	1.44
20 074 058	22 433 192	533 235	6 993 241	1.117	27.5	14.6	42.1	493	6.95	5.12	1.83
197 006	202 094	13 414	26 365	1.025	31.5	20.4	51.9	797	10.56	5.31	5.25
895 036	913 456	21 603	249 784	1.021	16.3	10.2	26.5	328	4.92	4.00	.92
17 228 974	17 840 203	1 099 978	6 061 378	1.035	21.6	10.7	32.3	417	5.14	4.21	.93
862 191	877 084	56 047	407 654	1.017	24.9	12.6	37.5	544	7.96	5.72	2.24
3 295 455	3 325 669	160 722	714 192	1.007	23.9	11.3	35.2	511	5.29	4.57	.72
3 063 594	3 234 969	157 998	747 197	1.567	25.7	13.2	38.9	598	6.45	5.07	1.38
88 088	88 898	6 382	31 022	1.009	13.5	4.9	18.4	303	7.16	3.98	3.18
1 586 734	1 600 570	78 651	489 264	1.009	19.8	9.8	29.6	405	6.56	5.25	1.31
541 079	547 715	110 619	29 961	1.012	10.8	6.3	17.1	248	4.57	4.01	.56
1 744 955	1 781 027	129 622	799 953	1.021	20.4	9.0	29.4	388	6.65	5.19	1.46
393 665	398 864	13 038	84 216	1.013	16.5	6.9	23.4	360	4.17	3.73	.44
425 250	430 179	21 492	62 406	1.011	13.4	5.3	18.7	241	3.73	3.34	.39
2 069 184	2 256 951	40 949	896 259	1.091	28.6	10.8	39.4	744	7.57	6.02	1.55
399 255	399 778	19 428	125 524	1.001	15.2	7.7	22.9	413	5.66	4.22	1.44

K. C. M. & O.	393 665	398 864	13 038	84 216	1.013	16.5	6.9	23.4	360	4
K. C. M. & O. of Tex.	425 250	430 179	21 492	62 406	1.011	13.4	5.3	18.7	241	3
K. C. S.	2 069 184	2 256 951	40 949	896 259	1.091	28.6	10.8	39.4	744	7
K. O. & G.	399 255	399 778	19 428	125 524	1.001	15.2	7.7	22.9	413	5
K. O. & G. of Tex.	9 774	9 783	.....	18 732	1.001	15.3	5.5	20.8	386	14
L. R. & N. Co.	472 761	473 702	2 414	243 968	1.002	19.8	10.3	30.1	467	7
xL. R. & N. Co. of Tex.	217 848	218 794	15 273	49 542	1.004	12.5	6.1	18.6	274	3
La. Western	372 556	380 407	38 781	88 358	1.021	28.0	15.9	43.9	706	8
M. K. T.	3 255 305	3 363 440	154 206	1 140 462	1.033	29.4	17.1	46.5	588	6
M. K. T. of Tex.	2 263 187	2 366 592	291 636	784 512	1.046	20.8	11.2	32.0	384	6
Mo. Pac.	13 716 212	14 298 391	1 094 275	5 735 912	1.043	24.8	11.2	36.0	541	6
M. L. & T.	697 469	720 962	122 230	643 172	1.034	26.6	12.4	39.0	640	9
N. O. T. & M.	229 402	232 909	28 891	110 661	1.015	33.8	17.4	51.2	860	10
P. H. & S. F.	1 213 437	1 270 899	10 752	143 297	1.047	31.9	15.9	47.8	497	5
St. L. B. & M.	497 356	499 295	88 722	68 783	1.003	25.2	17.3	42.5	489	8
St. L. S. F.	10 538 657	10 911 330	1 266 621	3 490 947	1.035	19.1	9.5	28.6	410	5
St. L. S. F. & Tex.	182 049	185 364	21 759	96 405	1.018	19.2	10.9	30.1	401	5
St. L. S. W.	1 982 932	2 008 339	101 602	468 029	1.013	32.4	12.1	44.5	661	9
St. L. S. W. of Tex	1 310 425	1 331 927	130 527	397 597	1.016	15.7	9.2	24.9	296	4
S. A. & A. P.	950 981	966 733	122 466	194 717	1.016	13.8	7.2	21.0	229	3
T. & Ft. S.	167 947	171 442	4 338	171 544	1.021	28.7	14.8	43.5	865	14
Texas & N. O.	885 395	896 278	94 974	844 151	1.012	21.6	12.9	34.5	531	7
Texas & Pacific	3 214 429	3 261 173	262 620	1 189 596	1.015	24.1	11.5	35.6	442	6
V. S. & P.	372 239	377 664	27 532	212 268	1.015	19.6	9.3	28.9	445	7

d—Deficit.
x—Report for nine months ended December 31, 1923.

393 665	398 864	13 038	84 216	1.013	16.5	6.9	23.4	360	4.17	3.73	.44
425 250	430 179	21 492	62 406	1.011	13.4	5.3	18.7	241	3.73	3.34	.39
2 069 184	2 256 951	40 949	896 259	1.091	28.6	10.8	39.4	744	7.57	6.02	1.55
399 255	399 778	19 428	125 524	1.001	15.2	7.7	22.9	413	5.66	4.22	1.44
9 774	9 783	.....	18 732	1.001	15.3	5.5	20.8	386	14.47	12.81	1.66
472 761	473 702	2 414	243 968	1.002	19.8	10.3	30.1	467	7.00	5.39	1.61
217 848	218 794	15 273	49 542	1.004	12.5	6.1	18.6	274	3.76	2.68	1.08
372 556	380 407	38 781	88 358	1.021	28.0	15.9	43.9	706	8.74	6.10	2.64
3 255 305	3 363 440	154 206	1 140 462	1.033	29.4	17.1	46.5	588	6.30	5.77	.53
2 263 187	2 366 592	291 636	784 512	1.046	20.8	11.2	32.0	384	6.13	5.03	1.10
13 716 212	14 298 391	1 094 275	5 735 912	1.043	24.8	11.2	36.0	541	6.26	5.31	.95
697 469	720 962	122 230	643 172	1.034	26.6	12.4	39.0	640	9.50	8.48	1.02
229 402	232 909	28 891	110 661	1.015	33.8	17.4	51.2	860	10.66	7.02	3.64
1 213 437	1 270 899	10 752	143 297	1.047	31.9	15.9	47.8	497	5.66	4.63	1.03
497 356	499 295	88 722	68 783	1.003	25.2	17.3	42.5	489	8.59	4.47	4.12
10 538 657	10 911 330	1 266 621	3 490 947	1.035	19.1	9.5	28.6	410	5.64	4.34	1.30
182 049	185 364	21 759	96 405	1.018	19.2	10.9	30.1	401	8.17	6.18	1.99
1 982 932	2 008 339	101 602	468 029	1.013	32.4	12.1	44.5	661	9.00	5.27	3.73
1 310 425	1 331 927	130 527	397 597	1.016	15.7	9.2	24.9	296	5.16	5.44	d .28
950 981	966 733	122 466	194 717	1.016	13.8	7.2	21.0	229	5.34	4.20	1.14
167 947	171 442	4 338	171 544	1.021	28.7	14.8	43.5	865	14.42	7.61	6.81
885 395	896 278	94 974	844 151	1.012	21.6	12.9	34.5	531	7.24	7.01	.23
3 214 429	3 261 173	262 620	1 189 596	1.015	24.1	11.5	35.6	442	6.99	5.40	1.59
372 239	377 664	27 532	212 268	1.015	19.6	9.3	28.9	445	7.90	5.82	2.08

ths ended December 31, 1923.

[fol. 287] From a study of the figures in exhibit A-51 it will be seen that the relative increase resulting from the addition of these items is quite small, and I think the only comment or explanation here needed is in respect to the item on page 2 of railway tax accruals for the K. C. M. & O. and the K. C. M. & O. of Texas.

I have nothing to say with respect to that other than to invite the attention to the remarks of the Commission in the Orient divisions case, Docket 13668, in 73 I. C. C. at page 329, and in 96 I. C. C. at page 380. The figures as I show them in my exhibit are those reported by the carriers to the Commission (Tr. 4369-4370).

Exhibit A-53 is for the year 1922 and is similar to exhibit A-52, the information being in all respects the same as the figures differ from one year to another (Tr. 4370).

Exhibit A-53 was received in evidence, which said exhibit, omitting title page, is in words and figures as follows:

(Here follows Exhibit No. A-53, side folios 288, 289, 290, 291, and 292)

[fol. 288]

EXHIBIT No. A-53

Witness: Parsons

Page 2

1922

I. C. C. Docket 15234

Railway Operating Revenues and Expenses

Year Ended December 31, 1922

Railroad	Average miles operated	Railway operating revenue	Railway operating expenses				
			M. of W. and S.	M. of E.	Transportation	Other expenses	Total
Chicago & Alton	1 050.51	$27 593 925	$3 700 886	$7 178 553	$11 063 611	$1 704 540	$23 647 5
C. & E. I.	945.13	24 731 348	2 782 201	6 567 570	10 354 312	1 430 650	21 134 7
C. & N. W.	8 403.82	146 100 437	19 323 883	30 456 070	63 056 718	6 354 463	119 191 1
C. B. & Q.	9 393.69	164 916 470	20 769 379	35 735 414	62 875 593	7 397 317	126 777 7
C. G. W.	1 496.06	24 224 789	3 640 961	5 705 835	10 334 236	1 593 193	21 274 2
C. M. & St. P.	11 029.86	156 950 628	19 798 385	36 987 240	66 068 029	6 743 042	129 596 6
C. St. P. M. & O.	1 749.19	27 801 007	3 526 300	5 011 252	12 390 761	1 368 738	22 297 0
Illinois Central	4 784.52	154 860 387	20 538 117	36 236 120	55 934 969	6 420 063	119 129 2
M. & St. L.	1 649.90	15 558 247	2 245 452	2 921 073	7 398 718	772 466	13 337 7
M. St. P. & S. S. M.	4 383.57	47 107 105	6 885 060	7 310 920	20 091 207	2 155 664	36 442 8
Q. O. & K. C.	252.72	1 242 291	372 713	214 713	673 560	34 132	1 295 1
Wabash	2 472.96	57 662 496	8 270 927	12 282 949	24 086 905	3 400 516	48 041 2
A. T. & S. F.	8 857.21	191 506 230	29 978 744	43 288 399	60 232 717	6 856 647	140 356 5
B. S. L. & W.	118.75	2 054 198	414 264	261 436	641 215	142 367	1 459 2
C. R. I. & G.	461.23	5 881 674	855 302	913 221	2 707 082	334 524	4 810 1
C. R. I. & P.	7 655.00	119 204 560	14 845 839	25 190 701	50 164 826	5 559 431	95 760 7
Ft. W. & D. C.	456.31	9 717 037	859 452	2 124 649	3 124 086	617 703	6 725 8
G. H. & S. A.	1 379.85	22 254 213	4 098 173	4 528 750	8 769 084	1 343 142	18 739 1
G. C. & S. F.	1 907.74	24 392 120	4 057 903	5 383 282	7 767 358	1 304 590	18 513 1
H. & S.	40.74	768 075	105 152	109 609	255 529	25 469	495 7
H. & T. C.	923.17	15 087 424	2 897 002	2 899 592	5 326 137	779 329	11 902 0
H. E. & W. T.	191.60	3 173 665	621 033	672 643	1 326 018	115 389	2 735 0
I. G. N.	1 159.50	14 674 116	2 273 391	2 831 968	6 222 478	952 463	12 280 3
K. C. M. & O.	272.20	1 375 952	287 454	286 349	742 421	127 238	1 443 4
K. C. M. & O. of Tex.	465.75	1 600 627	293 680	355 798	887 287	133 299	1 670 0
K. C. S.	767.60	18 221 027	2 333 293	3 822 501	6 399 281	1 231 516	13 786 5
K. O. & G.	314.45	2 871 211	500 519	330 923	1 040 180	191 624	2 063 2

EXHIBIT No. A-53

Witness: Parsons

Page 2

1922

I. C. C. Docket 15234

Railway Operating Revenues and Expenses

Year Ended December 31, 1922

Railway operating expenses									
M. of E.	Transportation	Other expenses	Total	Net operating revenue	Operating ratio	Railway tax accruals	Uncollectible railway revenue	Railway operating income	Ratio (a)
$7 178 553	$11 063 611	$1 704 540	$23 647 590	$3 946 335	85.70%	$969 612	$2 355	$2 974 368	89.22%
6 567 570	10 354 312	1 430 650	21 134 733	3 596 615	85.46	1 155 000	5 739	2 435 876	90.15
30 456 070	63 056 718	6 354 463	119 191 134	26 909 303	81.58	8 998 100	33 830	17 877 373	87.76
35 735 414	62 875 593	7 397 317	126 777 703	38 138 767	76.87	10 890 007	31 338	27 217 422	83.50
5 705 835	10 334 236	1 593 193	21 274 235	2 950 554	87.82	985 700	2 954	1 961 900	91.90
36 987 240	66 068 029	6 743 042	129 596 696	27 353 932	82.57	9 654 738	6 534	17 692 660	88.73
5 011 252	12 390 761	1 368 738	22 297 051	5 503 956	80.20	1 545 993	13 030	3 944 933	85.81
36 236 120	55 934 969	6 420 063	119 129 269	35 731 118	76.93	11 208 967	15 413	24 506 738	84.17
2 921 073	7 398 718	772 466	13 337 709	2 220 538	85.73	829 166	1 619	1 389 753	91.07
7 310 920	20 091 207	2 155 664	36 442 851	10 664 254	77.36	3 056 289	12 592	7 595 373	83.88
214 713	673 560	34 132	1 295 118	d 52 827	104.25	43 537	93	d 96 457	107.76
12 282 949	24 086 905	3 400 516	48 041 297	9 621 199	83.31	2 262 675	23 871	7 334 653	87.28
43 288 399	60 232 717	6 856 647	140 356 507	51 149 723	73.29	17 035 498	52 117	34 062 108	82.21
261 436	641 215	142 367	1 459 282	594 916	71.04	63 017	181	531 718	74.12
913 221	2 707 082	334 524	4 810 129	1 071 545	81.78	143 478	5 207	922 860	84.31
25 190 701	50 164 826	5 559 431	95 760 797	23 443 763	80.33	6 019 698	16 581	17 407 484	85.40
2 124 649	3 124 086	617 703	6 725 890	2 991 147	69.22	437 615	1 438	2 552 094	73.74
4 528 750	8 769 084	1 343 142	18 739 149	3 515 064	84 20	746 554	14 976	2 753 534	87.63
5 383 282	7 767 358	1 304 590	18 513 133	5 878 987	75.90	912 904	11 623	4 954 460	79.69
109 609	255 529	25 469	495 759	272 316	64.55	40 865	52	231 399	69.87
2 899 592	5 326 137	779 329	11 902 060	3 185 364	78.89	694 443	8 761	2 482 160	83.55
672 643	1 326 018	115 389	2 735 083	438 582	86.18	90 950	3 126	344 506	89.14
2 831 968	6 222 478	952 463	12 280 300	2 393 816	83.69	392 817	14 161	1 986 838	86.46
286 349	742 421	127 238	1 443 462	d 67 510	104.91	84 600	73	d 152 183	111.06
355 798	887 287	133 299	1 670 064	d 69 437	104.34	71 985	1 613	d 143 035	108.94
3 822 501	6 399 281	1 231 516	13 786 591	4 434 436	75.66	1 159 333	4 735	3 270 368	82.05
330 923	1 040 180	191 624	2 063 246	807 965	71.86	119 821	225	687 919	76.04

K. C. M. & O.	272.20	1 375 952	287 454	286 349	742 421	127 238	1 443 462
K. C. M. & O. of Tex.	465.75	1 600 627	293 680	355 798	887 287	133 299	1 670 064
K. C. S.	767.60	18 221 027	2 333 293	3 822 501	6 399 281	1 231 516	13 786 591
K. O. & G.	314.45	2 871 211	500 519	330 923	1 040 180	191 624	2 063 246
K. O. & G. of Tex.	9.10	156 616	18 544	25 274	60 246	25 210	129 274
L. R. & N. Co.	343.67	3 604 117	747 129	577 622	1 392 703	257 594	2 975 048
xL. R. & N. Co. of Tex.	.....	.....	.....	.....	.....	.....	.....
La. Western	207.74	4 303 197	637 976	912 439	1 224 768	359 976	3 135 159
M. K. T.	1 670.50	31 991 332	3 434 246	6 581 068	9 696 671	1 687 673	21 399 658
M. K. T. of Tex.	1 737.89	21 469 111	3 444 051	3 759 149	8 463 703	1 328 898	16 995 801
Mo. Pac.	7 261.78	99 921 331	17 282 957	20 996 699	41 152 481	5 226 778	84 658 915
M. L. & T.	400.67	8 533 386	1 682 494	2 066 061	3 307 422	635 915	7 691 892
N. O. T. & M.	191.22	2 939 171	429 196	569 494	644 074	174 593	1 817 357
P. H. & S. F.	857.79	8 119 141	1 921 800	2 294 145	2 613 461	297 590	7 126 996
St. L. B. & M.	550.22	5 111 852	925 584	731 589	1 406 388	379 021	3 442 582
St. L. S. F.	4 760.91	79 170 251	11 423 219	14 707 604	30 060 083	2 952 862	59 143 768
St. L. S. F. & Tex.	134.41	1 709 052	362 035	277 114	644 626	126 238	1 410 013
St. L. S. W.	968.65	18 548 233	2 318 040	2 794 051	5 081 145	1 195 905	11 389 141
St. L. S. W. of Tex.	807.38	7 611 691	1 981 096	2 037 353	4 010 514	586 472	8 615 435
S. A. & A. P.	739.36	5 780 170	1 093 189	1 360 016	2 395 701	414 376	5 263 282
T. & Ft. S.	95.33	2 140 152	229 053	278 371	623 818	165 627	1 296 869
Texas & N. O.	507.95	8 747 306	2 012 401	2 070 365	3 457 250	507 269	8 047 285
Texas & Pacific	1 952.74	3[illegible] 381 795	5 051 050	6 544 264	11 843 491	2 055 281	25 494 086
V. S. & P.	171.44	3 717 970	631 902	655 579	1 421 490	307 289	3 016 260

d—Deficit.
Cr—Credit.
x—Prior to March 31, 1923, part of M. K. T. Ry. of Texas.
(a)—Ratio of the sum of Railway Operating Expenses, Railway Tax Accruals and Uncollectible Railway Revenue to Railway Operating Reven

286 349	742 421	127 238	1 443 462	d 67 510	104.91	84 600	73	d 152 183	111.06
355 798	887 287	133 299	1 670 064	d 69 437	104.34	71 985	1 613	d 143 035	108.94
3 822 501	6 399 281	1 231 516	13 786 591	4 434 436	75.66	1 159 333	4 735	3 270 368	82.05
330 923	1 040 180	191 624	2 063 246	807 965	71.86	119 821	225	687 919	76.04
25 274	60 246	25 210	129 274	27 342	82.54	2 667	.....	24 675	84.24
577 622	1 392 703	257 594	2 975 048	629 069	82.54	206 162	2 935	419 972	88.35
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
912 439	1 224 768	359 976	3 135 159	1 168 038	72.86	303 058	1 640	863 340	79.94
6 581 068	9 696 671	1 687 673	21 399 658	10 591 674	66.89	2 106 244	17 893	8 467 537	73.53
3 759 149	8 463 703	1 328 898	16 995 801	4 473 310	79.16	681 747	12 040	3 779 523	82.40
20 996 699	41 152 481	5 226 778	84 658 915	15 262 416	84.73	4 015 318	40 665	11 206 433	88.78
2 066 061	3 307 422	635 915	7 691 892	841 494	90.14	570 061	2 208	269 225	96.85
569 494	644 074	174 593	1 817 357	1 121 814	61.83	263 722	Cr 159	858 251	70.80
2 294 145	2 613 461	297 590	7 126 996	992 145	87.78	350 665	3 506	637 974	92.14
731 589	1 406 388	379 021	3 442 582	1 669 270	67.35	204 704	4 539	1 460 027	71.44
14 707 604	30 060 083	2 952 862	59 143 768	20 026 483	74.70	3 610 936	57 781	16 357 766	79.34
277 114	644 626	126 238	1 410 013	299 039	82.50	24 517	1 243	273 279	84.01
2 794 051	5 081 145	1 195 905	11 389 141	7 159 092	61.40	908 484	3 859	6 246 749	66.32
2 037 353	4 010 514	586 472	8 615 435	d 1 003 744	113.19	319 914	1 206	d 1 324 864	117.41
1 360 016	2 395 701	414 376	5 263 282	516 888	91.06	180 167	3 653	333 068	94.24
278 371	623 818	165 627	1 296 869	843 283	60.60	156 342	789	686 152	67.94
2 070 365	3 457 250	507 269	8 047 285	700 021	92.00	373 647	4 820	321 554	96.32
6 544 264	11 843 491	2 055 281	25 494 086	5 887 709	81.24	1 230 397	8 942	4 648 370	85.19
655 579	1 421 490	307 289	3 016 260	701 710	81.13	231 319	1 775	468 616	87.40

...d Uncollectible Railway Revenue to Railway Operating Revenue.

1922

I. C. C. Docket 15234

Freight Revenues and Expenses

Year Ended December 31, 1922

Railroad	Freight revenue	Operating expenses assigned to freight service					Net freight revenue	Operating ratio freight
		M. of W. and S.	M. of E.	Transportation	Other expenses	Total		
Chicago & Alton	$19 031 174	$2 745 799	$5 297 954	$8 383 535	$814 270	$17 241 558	$1 789 616	90.60%
C. & E. I.	18 257 138	2 096 806	5 530 920	8 021 116	937 332	16 586 174	1 670 964	90.85
C. & N. W.	100 700 614	12 840 211	22 570 578	43 443 870	3 727 015	82 581 674	18 118 940	82.01
C. B. & Q.	121 388 902	15 511 516	28 809 216	46 566 467	4 089 185	94 976 384	26 412 518	78.24
C. G. W.	17 730 271	2 589 210	4 244 637	7 638 441	967 990	15 440 278	2 289 993	87.08
C. M. & St. P.	116 005 731	14 671 297	28 111 680	48 222 704	3 849 136	94 854 817	21 150 914	81.77
C. St. P. M. & O.	19 602 694	2 537 855	3 835 263	9 201 704	856 920	16 431 742	3 170 952	83.82
Illinois Central	119 849 020	15 498 833	28 972 088	43 454 540	3 892 635	91 818 096	28 030 924	76.61
M. & St. P.	12 865 023	1 752 464	2 325 425	5 844 127	633 471	10 555 487	2 309 536	82.05
M. St. P. & S. S. M.	35 529 522	4 899 210	5 532 976	14 614 849	1 310 050	26 357 085	9 172 437	74.18
Q. O. & K. C.	849 588	259 679	147 810	428 164	20 131	855 784 d	6 196	100.73
Wabash	43 911 074	6 234 093	9 443 769	18 727 843	2 274 466	36 580 171	7 230 903	83.53
A. T. & S. F.	132 964 660	20 104 460	32 346 649	41 424 150	4 051 562	97 926 821	35 037 839	73.65
B. S. L. & W.	1 640 185	286 670	188 127	434 045	100 259	1 009 101	631 084	61.52
C. R. I. & G.	4 476 579	605 804	725 118	1 970 812	213 358	3 515 092	961 487	78.52
C. R. I. & P.	83 241 761	10 130 066	18 722 587	35 562 929	3 063 352	67 478 934	15 762 827	81.06
Ft. W. & D. C.	6 852 575	651 777	1 726 817	2 322 607	1 202 676	5 903 877	948 698	86.16
C. H. & S. A.	16 422 195	2 948 595	3 480 518	6 618 875	698 854	13 746 842	2 675 353	83.71
G. C. & S. F.	18 686 643	2 958 604	4 483 895	5 735 215	867 386	14 045 100	4 641 543	75.16
H. & S.	626 774 f	85 807 f	89 444 f	208 519 f	20 784 f	404 554	222 220	64.55
H. & T. C.	10 597 691	1 956 139	2 160 172	3 857 452	476 811	8 450 574	2 147 117	79.74
H. E. & W. T.	2 501 949	490 249	511 612	1 082 822	76 304	2 160 987	340 962	86.37
I. G. N.	10 733 365	1 613 478	2 179 439	4 589 129	590 332	8 972 378	1 760 987	83.59
K. C. M. & O.	1 160 541	220 912	233 228	562 075	113 389	1 129 604	30 937	97.33
K. C. M. & O. of Tex.	1 374 189	233 393	307 674	705 145	120 633	1 366 845	7 344	99.47
K. C. S.	14 551 142	1 890 137	3 036 857	5 135 622	994 159	11 056 775	3 494 367	75.99
K. O. & G.	2 607 543	422 933	251 146	878 694	166 738	1 719 511	888 032	65.94
K. O. G. of Tex.	151 775 f	17 971 f	24 493 f	58 384 f	24 430 f	125 278	26 497	82.54
L. R. & N. Co.	3 018 863	250 369	458 263	1 085 318	527 993	2 321 943	696 920	76.91

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	994 159	11 056 775	3 494 367	75.99
K. O. & G.	2 607 543	422 933	251 146	878 694	166 738	1 719 511	888 032	65.94
K. O. G. of Tex	151 775 f	17 971 f	24 493 f	58 384 f	24 430 f	125 278	26 497	82.54
L. R. & N. Co.	3 018 863	250 369	458 263	1 085 318	527 993	2 321 943	696 920	76.91
xL. R. & N. Co. of Tex.								
La. Western	2 956 369	380 393	812 050	766 926	219 678	2 179 047	777 322	73.71
M. K. T.	23 395 948	2 457 179	4 561 176	6 932 280	1 061 510	15 012 145	8 383 803	64.17
M. K. T. of Tex	14 002 696	2 295 114	2 482 241	5 824 856	748 102	11 350 313	2 652 383	81.06
Mo. Pac	73 918 551	12 748 076	16 416 706	30 093 150	3 514 199	62 772 131	11 146 420	84.92
M. L. & T.	6 066 294	1 160 696	1 894 924	2 481 925	417 382	5 909 927	156 367	97.42
N. O. T. & M.	2 440 780	302 978	434 953	485 716	130 560	1 354 207	1 086 573	55.48
P. H. & S. F.	6 188 669	1 378 888	1 943 033	1 973 325	208 019	5 503 265	685 404	88.92
St. L. B. & M.	3 465 163	583 584	412 610	854 081	255 605	2 105 880	1 359 283	60.77
St. L. S. F.	54 759 680	8 183 263	10 838 708	21 077 808	1 997 682	42 097 461	12 662 219	76.88
St. L. S. F. & Tex	1 450 904	265 339	220 553	485 838	88 529	1 060 259	390 645	73.08
St. L. S. W.	16 251 232	1 870 227	2 285 121	4 078 769	987 749	9 221 866	7 029 366	56.75
St. L. S. W. of Tex.	6 045 973	1 557 763	1 682 323	3 064 946	459 320	6 764 352	d 718 379	111.88
S. A. & A. P.	4 500 866	793 850	1 007 130	1 658 800	316 687	3 776 467	724 399	83.91
T. & Ft. S.	1 784 983	177 818	216 499	480 247	126 104	1 000 668	784 315	56.06
Texas & N. O.	6 341 935	1 445 915	1 537 181	2 599 516	291 169	5 873 781	468 154	92.62
Texas & Pacific	21 738 482	3 425 293	4 678 243	8 314 171	1 151 364	17 569 071	4 169 411	80.82
V. S. & P.	2 326 927	374 070	405 255	941 555	208 864	1 929 744	397 183	82.93

d—Deficit.

f—Separation of Operating Expenses not made by Class II Carriers. Proportion of each class of Operating Expenses assigned to Freight Service in ratio of Freight Revenue to Total Operating Revenue.

x—Prior to March 31, 1923, part of M.K.T. Ry. of Texas.

Tons and Ton-miles Revenue, Freight Car-miles, and Averages per Ton, per Ton-mile an

Year Ended December 31, 1922

Railroad	Freight tonnage and averages					Freight-car miles		Ave
	Tons revenue, freight	Ton-miles revenue freight	Average haul, miles	Revenue per ton	Revenue P. T. M., Mills	Loaded	Empty	Tons revenu freigh
Chicago & Alton	10 143 898	1 802 180 400	178	$1.876	10.56	74 099 090	37 512 544	24.3
C. & E. I	11 759 235	1 871 349 417	159	1.553	9.76	65 135 728	32 267 071	28.7
C. & N. W	48 607 124	7 579 553 676	156	2.072	13.29	377 645 665	193 299 602	20.1
C. B. & Q	39 176 051	11 754 595 862	300	3.099	10.33	496 082 644	260 326 665	23.7
C. G. W	5 853 531	1 729 319 825	295	3.029	10.25	84 485 476	33 377 439	20.5
C. M. & St. P	42 034 285	10 601 913 667	252	2.760	10.94	478 002 655	239 055 275	22.2
C. St. P. M. & O	9 516 320	1 479 069 786	155	2.060	13.25	71 032 136	29 731 048	20.8
Illinois Central	47 670 424	14 151 817 246	297	2.514	8.47	556 703 765	295 277 716	25.4
M. & St. L	6 366 000	1 132 266 527	178	2.021	11.36	48 984 142	20 232 697	23.1
M. St. P. & S. S. M	14 383 633	3 115 229 445	217	2.470	11.41	143 120 055	55 660 217	21.8
Q. O. & K. C	499 933	63 217 821	126	1.699	13.44	2 757 062	951 981	22.9
Wabash	15 629 501	3 930 796 969	252	2.810	11.17	189 594 995	66 053 077	20.7
A. T. & S. F	28 864 957	9 029 371 063	313	4.606	14.73	498 498 679	245 766 666	18.1
B. S. L. & W	1 284 087	120 363 960	94	1.277	13.63	5 100 865	3 254 968	23.6
C. R. I. & G	3 354 375	292 304 859	87	1.335	15.31	14 207 234	7 366 466	20.6
C. R. I. & P	25 172 364	6 358 139 560	253	3.307	13.09	338 046 731	113 036 105	18.8
Ft. W. & D. C	2 611 068	461 678 556	177	2.264	14.84	21 488 988	10 344 381	21.5
G. H. & S. A	6 563 076	1 413 170 530	215	2.502	11.62	65 738 923	32 047 171	21.5
G. C. & S. F	6 860 510	1 589 140 689	232	2.724	11.75	69 800 242	34 191 046	22.8
H. & S	798 966	34 104 944	43	.784	18.38	1 228 397	588 555	27.8
H. & T. C	3 908 190	586 750 660	150	2.712	18.06	26 215 483	13 480 296	22.4
H. E. & W. T	1 459 802	148 188 946	102	1.714	16.88	6 631 078	4 255 774	22.4
I. G. N	3 857 959	618 063 625	160	2.782	17.37	31 566 115	14 929 908	19.6
K. C. M. & O	500 751	77 579 265	155	2.318	14.96	4 078 629	1 511 616	19.0
K. C. M. & O. of Tex	544 848	91 556 622	168	2.522	15.01	5 069 062	2 132 421	18.1
K. C. S	4 800 940	1 403 748 101	292	3.031	10.37	55 350 145	19 249 391	25.4
K. O. & G	2 010 433	203 031 000	101	1.297	12.84	6 612 000	3 875 000	30.7
K. O. & G. of Tex	[illegible]							

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I. C. C. Docket 15234

Ton-miles Revenue, Freight Car-miles, and Averages per Ton, per Ton-mile and per Car-mile

Year Ended December 31, 1922

nnage and averages			Freight-car miles		Averages per loaded freight-car mile				Freight revenue and expenses per 1,000,000 net ton-miles		
Average haul, miles	Revenue per ton	Revenue P. T. M., Mills	Loaded	Empty	Tons revenue freight	Revenue, cents	Expenses, cents	Net Revenue, cents	Revenue	Expenses	Net revenue
178	$1.876	10.56	74 099 090	37 512 544	24.3	25.7	23.3	2.4	10 561	$ 9 568	$ 993
159	1.553	9.76	65 135 728	32 267 071	28.7	28.0	25.4	2.6	9 756	8 863	893
156	2.072	13.29	377 645 665	193 299 602	20.1	26.7	21.9	4.8	13 285	10 895	2 390
300	3.099	10.33	496 082 644	260 326 665	23.7	24.5	19.2	5.3	10 327	8 080	2 247
295	3.029	10.25	84 485 476	33 377 439	20.5	21.0	18.3	2.7	10 253	8 930	1 323
252	2.760	10.94	478 002 655	239 055 275	22.2	24.3	19.9	4.4	10 942	8 947	1 995
155	2.060	13.25	71 032 136	29 731 048	20.8	27.6	23.1	4.5	13 253	11 110	2 143
297	2.514	8.47	556 703 765	295 277 716	25.4	21.5	16.5	5.0	8 469	6 488	1 981
178	2.021	11.36	48 984 142	20 232 697	23.1	26.3	21.6	4.7	11 365	9 325	2 040
217	2.470	11.41	143 120 055	55 660 217	21.8	24.8	18.4	6.4	11 406	8 461	2 945
126	1.699	13.44	2 757 062	951 981	22.9	30.8	31.0	d .2	13 439	13 537	d 98
252	2.810	11.17	189 594 995	66 053 077	20.7	23.2	19.4	3.8	11 170	9 331	1 839
313	4.606	14.73	498 498 679	245 766 666	18.1	26.7	19.7	7.0	14 726	10 846	3 880
94	1.277	13.63	5 100 865	3 254 968	23.6	32.2	19.8	12.4	13 627	8 384	5 243
87	1.335	15.31	14 207 234	7 366 466	20.6	31.5	24.7	6.8	15 314	12 025	3 289
253	3.307	13.09	338 046 731	143 036 105	18.8	24.6	20.0	4.6	13 092	10 613	2 479
177	2.264	14.84	21 488 988	10 344 381	21.5	31.9	27.5	4.4	14 832	12 779	2 053
215	2.502	11.62	65 738 923	32 047 171	21.5	25.0	20.9	4.1	11 622	9 729	1 893
232	2.724	11.75	69 800 242	34 191 046	22.8	26.8	20.1	6.7	11 760	8 839	2 921
43	.784	18.38	1 228 397	588 555	27.8	51.0	32.9	18.1	18 378	11 862	6 516
150	2.712	18.06	26 215 483	13 480 296	22.4	40.4	32.2	8.2	18 054	14 396	3 658
102	1.714	16.88	6 631 078	4 255 774	22.4	37.7	32.6	5.1	16 884	14.583	2 301
160	2.782	17.37	31 566 115	14 929 908	19.6	34.0	28.4	5.6	17 367	14 518	2 849
155	2.318	14.96	4 078 629	1 511 616	19.0	28.5	27.7	.8	14 959	14 560	399
168	2.522	15.01	5 069 062	2 132 421	18.1	27.1	27.0	.1	15 000	14 929	80
292	3.031	10.37	55 350 145	19 249 391	25.4	26.3	20.0	6.3	10 364	7 875	2 489
101	1.297	12.84	6 612 000	3 875 000	30.7	39.4	26.0	13.4	12 845	8 470	4 375
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

K. C. M. & O. of Tex.	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	18.1
K. C. S.	4 800 940	1 403 748 101	292	3.031	10.37	55 350 145	19 249 391	25.4
K. O. & G.	2 010 433	203 031 000	101	1.297	12.84	6 612 000	3 875 000	30.7
K. O. & G. of Tex.	420 679	3 828 179	9	.361	39.65	136 323	66 124	28.1
L. R. & N. Co.	1 570 374	188 898 821	120	1.922	15.98	8 106 781	4 047 864	23.3
xL. R. & N. Co. of Tex.								
La. Western	3 319 741	220 088 144	66	.891	13.43	8 668 882	4 906 067	25.4
M. K. T.	6 648 453	1 657 444 955	249	3.519	14.12	80 811 941	44 169 264	20.5
M. K. T. of Tex.	5 655 649	845 454 791	149	2.582	16.56	44 502 276	22 917 957	19.0
Mo. Pac.	26 149 053	5 995 683 688	229	2.827	12.33	288 238 354	117 458 564	20.8
M. L. & T.	3 575 979	376 774 506	105	1.696	16.10	1[illegible] 090 846	6 476 984	23.4
N. O. T. & M.	1 698 565	182 987 653	108	1.437	13.34	[illegible] 170 054	3 389 958	25.5
P. H. & S. F.	2 758 640	547 594 479	199	2.243	11.30	34 389 808	16 109 227	15.9
St. L. F. & M.	922 239	210 844 564	229	3.757	16.43	11 103 987	7 624 210	19.0
St. L. S. F.	19 704 646	3 499 166 915	178	2.780	15.65	163 269 671	81 132 154	21.4
St. L. S. F. & Tex.	1 102 029	66 209 255	60	1.317	21.91	2 998 349	1 775 168	22.1
St. L. S. W.	3 879 552	1 191 598 394	307	4.189	13.64	57 297 645	21 788 478	20.8
St. L. S. W. of Tex.	2 535 912	343 806 560	136	2.384	17.59	18 448 371	10 217 502	18.6
S. A. & A. P.	1 371 633	193 072 644	141	3.281	23.31	11 588 182	6 258 752	16.7
T. & Ft. S.	3 012 325	103 967 427	35	.593	17.17	3 778 382	1 594 625	27.5
Texas & N. O.	4 468 631	430 957 364	96	1.419	14.72	19 005 592	11 967 619	22.7
Texas & Pacific	7 732 802	1 379 504 935	178	2.811	15.76	70 796 591	33 304 456	19.5
V. S. & P.	1 373 532	125 100 490	91	1.694	18.60	5 767 000	2 651 000	21.7

d—Deficit.
x—Prior to March 31, 1923, part of MKT Ry. of Texas.

2.022	13.01	3 009 002	2 132 421	18.1	27.1	27.0	.1	15 000	14 929	80
3.031	10.37	55 350 145	19 249 391	25.4	26.3	20.0	6.3	10 364	7 875	2 489
1.297	12.84	6 612 000	3 875 000	30.7	39.4	26.0	13.4	12 845	8 470	4 375
.361	39.65	136 323	66 124	28.1	111.3	91.9	19.4	39 647	32 725	6 922
1.922	15.98	8 106 781	4 047 864	23.3	37.2	28.6	8.6	15 981	12 292	3 689
.891	13.43	8 668 882	4 906 067	25.4	34.1	25.1	9.0	13 433	9 901	3 532
3.519	14.12	80 811 941	44 169 264	20.5	29.0	18.6	10.4	14 119	9 060	5 059
2.582	16.56	44 502 276	22 917 957	19.0	31.5	25.5	6.0	16 562	13 425	3 137
2.827	12.33	288 238 354	117 458 564	20.8	25 6	21.8	3.8	12 328	10 469	1 859
1.696	16.10	16 090 846	6 476 984	23.4	37.7	36.7	1.0	16 101	15 686	415
1.437	13.34	7 170 054	3 389 958	25.5	34.0	18.9	15.1	13 338	7 400	5 938
2.243	11.30	34 389 808	16 109 227	15.9	18.0	16.0	2.0	11 293	10 042	1 251
3.757	16.43	11 103 987	7 624 210	19.0	31.2	19.0	12.2	16 422	9 980	6 442
2.780	15.65	163 269 671	81 132 154	21.4	33.5	25.8	7.7	15 650	12 031	3 619
1.317	21.91	2 998 349	1 775 168	22.1	48.4	35.4	13.0	21 914	16 014	5 900
4.189	13.64	57 297 645	21 788 478	20.8	28.4	16.1	12.3	13 638	7 739	5 899
2.384	17.59	18 448 371	10 217 502	18.6	32.8	36.7	d 3.9	17 576	19 664	d 2 088
3.281	23.31	11 588 182	6 258 752	16.7	38.8	32.6	6.2	23 320	19 567	3 753
.593	17.17	3 778 382	1 594 625	27.5	47.2	26.5	20.7	17 163	9 622	7 541
1.419	14.72	19 005 592	11 967 619	22.7	33.4	30.9	2.5	14 716	13 630	1 086
2.811	15.76	70 796 591	33 304 456	19.5	30.7	24.8	5.9	15 752	12 731	3 021
1.694	18.60	5 767 000	2 651 000	21.7	40 4	33.5	6.9	18 601	15 426	3 175

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Averages per mile of road

Year ended December 31, 1922

Railroad	Ton-miles revenue freight	Operating revenues	Railway M. of W. and S.	Operating expenses				Net operating revenue	Railway operating income	Freight revenue
				M. of E.	Transportation	Other expenses	Total			
Chicago & Alton	1 725 529	$26 267	$3 523	$6 833	$10 532	$1 623	$22 511	$3 756	$2 831	$18 116
C. & E. I.	1 979 991	26 167	2 944	6 949	10 955	1 514	22 362	3 805	2 577	19 317
C. & N. W.	901 918	17 385	2 300	3 624	7 503	756	14 183	3 202	2 127	11 983
C. B. & Q.	1 251 329	17 556	2 211	3 804	6 693	788	13 496	4 060	2 897	12 922
C. G. W.	1 155 916	16 192	2 434	3 814	6 907	1 065	14 220	1 972	1 311	11 851
C. M. & St. P.	961 201	14 230	1 795	3 353	5 990	612	11 750	2 480	1 604	10 517
C. St. P. M. & O.	845 574	15 894	2 016	2 865	7 084	782	12 747	3 147	2 255	11 207
Illinois Central	2 957 834	32 367	4 292	7 574	11 691	1 342	24 899	7 468	5 122	25 049
M. & St. L.	686 264	9 430	1 361	1 771	4 484	468	8 084	1 346	842	7 797
M. St. P. & S. S. M.	710 660	10 746	1 570	1 668	4 583	492	8 313	2 433	1 733	8 105
Q. O. & K. C.	250 150	4 916	1 475	850	2 665	135	5 125	d 209	d 382	3 362
Wabash	1 589 511	23 317	3 344	4 967	9 740	1 375	19 426	3 891	2 966	17 756
A. T. & S. F.	1 019 437	21 622	3 385	4 888	6 800	774	15 847	5 775	3 846	15 012
B. S. L. & W.	1 013 591	17 299	3 489	2 201	5 400	1 199	12 289	5 010	4 478	13 812
C. R. I. & G.	633 751	12 752	1 855	1 980	5 869	725	10 429	2 323	2 001	9 706
C. R. I. & P.	830 586	15 572	1 939	3 291	6 553	726	12 509	3 063	2 274	10 874
Ft. W. D. & C.	1 011 765	21 295	1 884	4 656	6 846	1 354	14 740	6 555	5 593	15 017
G. H. & S. A.	1 024 148	16 128	2 970	3 282	6 355	974	13 581	2 547	1 996	11 901
G. C. & S. F.	832 996	12 786	2 127	2 822	4 071	684	9 704	3 082	2 597	9 795
H. & S.	837 137	18 853	2 581	2 691	6 272	625	12 169	6 684	5 680	15 385
H. & T. C.	635 582	16 343	3 138	3 141	5 770	844	12 893	3 450	2 689	11 480
Y. E. & W. T.	773 429	16 564	3 241	3 511	6 921	602	14 275	2 289	1 798	13 058
I. G. N.	533 043	12 656	1 961	2 442	5 367	821	10 591	2 065	1 714	9 257
K. C. M. & O.	285 008	5 055	1 056	1 052	2 727	468	5 303	d 248	d 559	4 264
K. C. M. & O. of Tex.	196 579	3 437	631	764	1 905	286	3 586	d 149	d 307	2 950
K. C. S.	1 828 750	23 738	3 040	4 980	8 337	1 604	17 961	5 777	4 261	18 957
K. O. & G.	645 670	9 131	1 391	1 052	3 308	610	6 562	2 569	2 188	8 292
K. O. & G. of Tex.	420 679	17 211	2 038	2 777	6 621	2 770	14 206	3 005	2 712	16 670
L. & N. Co.	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

1922

I. C. C. Docket 15234

Averages per mile of road

Year ended December 31, 1922

	Ton-miles revenue freight	Operating revenues	Railway M. of W. and S.	Operating expenses				Net operating revenue	Railway operating income	Freight revenue	Operating expenses, freight	Net freight revenue
				M. of E.	Transportation	Other expenses	Total					
....	1 725 529	$26 267	$3 523	$6 833	$10 532	$1 623	$22 511	$3 756	$2 831	$18 116	$16 413	$1 703
....	1 979 991	26 167	2 944	6 949	10 955	1 514	22 362	3 805	2 577	19 317	17 551	1 768
....	901 918	17 385	2 300	3 624	7 503	756	14 183	3 202	2 127	11 983	9 827	2 156
....	1 251 329	17 556	2 211	3 804	6 693	788	13 496	4 060	2 897	12 922	10 110	2 812
....	1 155 916	16 192	2 434	3 814	6 907	1 065	14 220	1 972	1 311	11 851	10 321	1 530
....	961 201	14 230	1 795	3 353	5 990	612	11 750	2 480	1 604	10 517	8 600	1 917
....	845 574	15 894	2 016	2 865	7 084	782	12 747	3 147	2 255	11 207	9 344	1 813
....	2 957 834	32 367	4 292	7 574	11 691	1 342	24 899	7 468	5 122	25 049	19 191	5 858
....	686 264	9 430	1 361	1 771	4 484	468	8 084	1 346	842	7 797	6 397	1 400
....	710 660	10 746	1 570	1 668	4 583	492	8 313	2 433	1 733	8 105	6 013	<2 092
....	250 150	4 916	1 475	850	2 665	135	5 125	d 209	d 382	3 362	3 386	d 24
....	1 589 511	23 317	3 344	4 967	9 740	1 375	19 426	3 891	2 966	17 756	14 832	2 924
....	1 019 437	21 622	3 385	4 888	6 800	774	15 847	5 775	3 846	15 012	11 056	3 956
....	1 013 591	17 299	3 489	2 201	5 400	1 199	12 289	5 010	4 478	13 812	8 498	5 314
....	633 751	12 752	1 855	1 980	5 869	725	10 429	2 323	2 001	9 706	7 621	2 085
....	830 586	15 572	1 939	3 291	6 553	726	12 509	3 063	2 274	10 874	8 815	2 059
....	1 011 765	21 295	1 884	4 656	6 846	1 354	14 740	6 555	5 593	15 017	12 938	2 079
....	1 024 148	16 128	2 970	3 282	6 355	974	13 581	2 547	1 996	11 901	9 962	1 939
....	832 996	12 786	2 127	2 822	4 071	684	9 704	3 082	2 597	9 795	7 362	2 433
....	837 137	18 853	2 581	2 691	6 272	625	12 169	6 684	5 680	15 385	9 930	5 455
....	635 582	16 343	3 138	3 141	5 770	844	12 893	3 450	2 689	11 480	9 154	2 326
....	773 429	16 564	3 241	3 511	6 921	602	14 275	2 289	1 798	13 058	11 279	1 779
....	533 043	12 656	1 961	2 442	5 367	821	10 591	2 065	1 714	9 257	7 738	1 519
....	285 008	5 055	1 056	1 052	2 727	468	5 303	d 248	d 559	4 264	4 150	114
....	196 579	3 437	631	764	1 905	286	3 586	d 149	d 307	2 950	2 935	15
....	1 828 750	23 738	3 040	4 980	8 337	1 604	17 961	5 777	4 261	18 957	14 404	4 553
....	645 670	9 131	1 391	1 052	3 308	610	6 562	2 569	2 188	8 292	5 468	2 824
....	420 679	17 211	2 038	2 777	6 621	2 770	14 206	3 005	2 712	16 679	13 767	2 912
....	549 651	10 [illegible]	2 174	1 681	4 052	750	8 857	1 890	1 222	8 784	8 258	2 [illegible]

K. C. S.	1 828 750	23 738	3 040	4 980	8 337	1 604	17 961	5 777	4 261	18 957
K. O. & G.	645 670	9 131	1 391	1 052	3 308	610	6 562	2 569	2 188	8 292
K. O. & G. of Tex.	420 679	17 211	2 038	2 777	6 621	2 770	14 206	3 005	2 712	16 679
L. R. & N. Co.	549 651	10 487	2 174	1 681	4 052	750	8 657	1 830	1 222	8 784
xL. R. & N. Co. of Tex.	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
La. Western	1 059 440	20 714	3 071	4 392	5 896	1 733	15 092	5 622	4 156	14 231
M. K. T.	992 185	19 151	2 056	3 940	5 805	1 010	12 811	6 340	5 069	14 005
M. K. T. of Tex.	486 483	12 354	1 982	2 163	4 870	765	9 780	2 574	2 175	8 057
Mo. Pac.	825 649	13 760	2 380	2 891	5 667	720	11 658	2 102	1 543	10 179
M. L. & T.	940 361	21 298	4 199	5 157	8 255	1 587	19 198	2 100	672	15 140
N. O. T. & M.	956 948	15 371	2 245	2 978	3 368	913	9 504	5 867	4 488	12 764
P. H. & S. F.	638 378	9 465	2 240	2 674	3 047	347	8 308	1 157	744	7 215
St. L. B. & M.	383 200	9 291	1 682	1 330	2 556	689	6 257	3 034	2 654	6 298
St. L. S. F.	734 979	16 629	2 400	3 089	6 314	620	12 423	4 206	3 436	11 502
St. L. S. F. & Tex.	492 592	12 715	2 694	2 061	4 796	939	10 490	2 225	2 033	10 795
St. L. S. W.	1 230 164	19 149	2 393	2 884	5 246	1 235	11 758	7 391	6 449	16 777
St. L. S. W. of Tex.	425 856	9 428	2 454	2 524	4 968	726	10 672	d 1 243	d 1 641	7 489
S. A. & A. P.	261 135	7 818	1 479	1 839	3 240	561	7 119	699	451	6 088
T. & Ft. S.	1 090 606	22 450	2 403	2 920	6 544	1 737	13 604	8 846	7 198	18 724
Texas & N. O.	848 425	17 221	3 962	4 076	6 806	999	15 843	1 378	633	12 485
Texas & Pacific	796 446	16 071	2 587	3 351	6 065	1 053	13 056	3 015	2 380	11 132
V. S. & P.	729 704	21 687	3 686	3 834	8 292	1 792	17 594	4 093	2 733	13 573

d—Deficit.
x—Prior to March 31, 1923, part of M. K. T. Ry. of Texas.

.....	1 828 750	23 738	3 040	4 980	8 337	1 604	17 961	5 777	4 261	18 957	14 404	4 553
.....	645 670	9 131	1 391	1 052	3 308	610	6 562	2 569	2 188	8 292	5 468	2 824
.....	420 679	17 211	2 038	2 777	6 621	2 770	14 206	3 005	2 712	16 679	13 767	2 912
.....	549 651	10 487	2 174	1 681	4 052	750	8 657	1 830	1 222	8 784	6 756	2 028
Tex.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	1 059 440	20 714	3 071	4 392	5 896	1 733	15 092	5 622	4 156	14 231	10 489	3 742
.....	992 185	19 151	2 056	3 940	5 805	1 010	12 811	6 340	5 069	14 005	8 987	5 018
.....	486 483	12 354	1 982	2 163	4 870	765	9 780	2 574	2 175	8 057	6 531	1 526
.....	825 649	13 760	2 380	2 891	5 667	720	11 658	2 102	1 543	10 179	8 644	1 536
.....	940 361	21 298	4 199	5 157	8 255	1 587	19 198	2 100	672	15 140	14 750	390
.....	956 948	15 371	2 245	2 978	3 368	913	9 504	5 867	4 488	12 764	7 082	5 682
.....	638 378	9 465	2 240	2 674	3 047	347	8 308	1 157	744	7 215	6 416	799
.....	383 200	9 291	1 682	1 330	2 556	689	6 257	3 034	2 654	6 298	3 827	2 471
.....	734 979	16 629	2 400	3 089	6 314	620	12 423	4 206	3 436	11 502	8 842	2 660
.....	492 592	12 715	2 694	2 061	4 796	939	10 490	2 225	2 033	10 795	7 888	2 907
.....	1 230 164	19 149	2 393	2 884	5 246	1 235	11 758	7 391	6 449	16 777	9 520	7 257
.....	425 856	9 428	2 454	2 524	4 968	726	10 672	d 1 243	d 1 641	7 489	8 379	d 890
.....	261 135	7 818	1 479	1 839	3 240	561	7 119	699	451	6 088	5 108	980
.....	1 090 606	22 450	2 403	2 920	6 544	1 737	13 604	8 846	7 198	18 724	10 497	8 227
.....	848 425	17 221	3 962	4 076	6 806	999	15 843	1 378	633	12 485	11 564	921
.....	796 446	16 071	2 587	3 351	6 065	1 053	13 056	3 015	2 380	11 132	8 997	2 135
.....	729 704	21 687	3 686	3 834	8 292	1 792	17 594	4 093	2 733	13 573	11 256	2 317

ch 31, 1923, part of M. K. T. Ry. of Texas.

1922

I. C. C. Docket 15234

Freight Train and Locomotive Miles (Including a Proportion of Mixed Train Miles and Mixed Train Locomotive Miles), Switching Locomotive Miles, and Averages per Freight Train Mile

Year Ended December 31, 1922

Railroad	Train and locomotive miles				Averages per Freight Trai			
	Freight Train miles	Freight Train Locomotive miles	Train Switching locomotive miles	Yard Switching locomotive miles	Train Locomotive Miles	Car Miles		
						Loaded	Empty	Total
Chicago & Alton	3 370 633	3 487 385	136 229	1 443 241	1.035	22.0	11.1	33.1
C. & E. I	2 646 955	2 738 858	142 593	1 604 514	1.035	24.6	12.2	36.8
C. & N. W	17 606 038	18 475 182	780 952	8 608 656	1.049	21.4	11.0	32.4
C. B. & Q	18 692 860	20 475 522	871 880	7 975 738	1.095	26.6	13.9	40.5
C. G. W	2 933 535	3 437 619	170 486	1 214 474	1.172	28.8	11.4	40.2
C. M. & St. P	19 535 159	20 971 488	1 724 472	8 354 882	1.074	24.5	12.2	36.7
C. St. P. M. & O	3 856 385	4 323 705	419 843	1 758 669	1.121	18.4	7.7	26.1
Illinois Central	20 214 364	20 932 663	703 355	7 323 847	1.036	27.6	14.6	42.2
M. & St. L	2 726 738	2 959 550	151 306	735 225	1.085	18.0	7.4	25.4
M. St. P. & S. S. M	6 468 272	6 831 331	526 032	1 781 508	1.056	22.1	8.6	30.7
Q. U. & K. C	209 757	272 037	5 154	22 010	1.297	13.2	4.5	17.7
Wabash	6 536 196	6 953 642	375 695	2 850 507	1.064	29.0	10.1	39.1
A. T. & S. F	18 402 639	20 325 357	562 438	6 353 164	1.104	27.1	13.3	40.4
B. S. L. & W	166 951	173 133	7 748	20 514	1.037	30.6	19.5	50.1
C. R. I. & G	831 310	852 427	27 442	246 038	1.025	17.1	8.9	26.0
C. R. I. & P	15 320 221	15 719 994	1 042 071	5 493 480	1.026	22.1	9.3	31.4
Ft. W. & D. C	889 951	908 717	58 363	417 739	1.021	24.2	11.6	35.8
G. H. & S. A	2 862 673	2 891 655	161 477	654 664	1.010	23.0	11.2	34.2
G. C. & S. F	2 675 233	2 829 371	119 564	688 013	1.058	26.1	12.8	38.9
H. & S	96 250	99 290	4 062	34 972	1.032	12.8	6.1	18.9
H. & T. C	1 414 087	1 428 404	66 936	471 262	1.010	18.6	9.5	28.1
H. E. & W. T	561 091	578 231	100 474	18 974	1.031	11.8	7.6	19.4
I. G. N	1 614 135	1 660 234	142 096	749 972	1.029	19.6	9.2	28.8
K. C. M. & O	241 448	245 836	12 366	70 176	1.018	16.9	6.3	23.2
K. C. M. & O. of Tex	360 175	366 650	18 666	56 922	1.018	14.1	5.9	20.0
K. C. S	1 887 725	2 075 459	35 513	822 817	1.099	29.3	10.2	39.5
K. O. & G	410 889	411 189	17 532	123 022	1.001	16.1	9.4	25.5

1922

I. C. C. Docket 15234

Freight Train and Locomotive Miles (Including a Proportion of Mixed Train Miles and Mixed Train Locomotive Miles), Switching Locomotive Miles, and Averages per Freight Train Mile

Year Ended December 31, 1922

Train and locomotive miles				Averages per Freight Train Mile							
					Car Miles						
ight ain iles	Freight Train Locomotive miles	Train Switching locomotive miles	Yard Switching locomotive miles	Train Locomotive Miles	Loaded	Empty	Total	Tons Revenue Freight	Revenue	Expenses	Net Revenue
70 633	3 487 385	136 229	1 443 241	1.035	22.0	11.1	33.1	535	$5.65	$5.12	$ .53
46 955	2 738 858	142 593	1 604 514	1.035	24.6	12.2	36.8	707	6.90	6.27	.63
06 038	18 475 182	780 952	8 608 656	1.049	21.4	11.0	32.4	431	5.72	4.69	1.03
92 860	20 475 522	871 880	7 975 738	1.095	26.6	13.9	40.5	629	6.49	5.08	1.41
33 535	3 437 619	170 486	1 214 474	1.172	28.8	11.4	40.2	590	6.04	5.26	.78
35 159	20 971 438	1 724 472	8 354 882	1.074	24.5	12.2	36.7	543	5.94	4.86	1.08
56 385	4 323 705	419 843	1 758 669	1.121	18.4	7.7	26.1	384	5.08	4.26	.82
14 364	20 932 663	703 355	7 323 847	1.036	27.6	14.6	42.2	700	5.93	4.54	1.39
25 738	2 959 550	151 306	735 225	1.085	18.0	7.4	25.4	415	4.72	3.87	.85
58 272	6 831 331	526 032	1 781 508	1.056	22.1	8.6	30.7	482	5.49	4.07	1.42
7 757	272 037	5 154	22 010	1.297	13.2	4.5	17.7	301	4.05	4.08	d .03
36 196	6 953 642	375 695	2 850 507	1.064	29.0	10.1	39.1	601	6.72	5.61	1.11
12 639	20 325 357	562 438	6 353 164	1.104	27.1	13.3	40.4	491	7.22	5.32	1.90
18 951	173 133	7 748	20 514	1.037	30.6	19.5	50.1	721	9.82	6.04	3.78
11 310	852 427	27 442	246 038	1.025	17.1	8.9	26.0	352	5.38	4.23	1.15
59 221	15 719 994	1 042 071	5 493 480	1.026	22.1	9.3	31.4	415	5.43	4.40	1.03
39 951	908 717	58 363	417 739	1.021	24.2	11.6	35.8	519	7.70	6.63	1.07
12 673	2 891 655	161 477	654 664	1.010	23.0	11.2	34.2	494	5.73	4.80	.93
75 233	2 829 371	119 564	688 013	1.058	26.1	12.8	38.9	594	6.99	5.25	1.74
16 250	99 290	4 062	34 972	1.032	12.8	6.1	18.9	354	6.51	4.20	2.31
14 087	1 428 404	66 936	471 262	1.010	18.6	9.5	28.1	415	7.50	5.98	1.52
11 091	578 231	100 474	18 974	1.031	11.8	7.6	19.4	264	4.46	3.85	.61
135	1 660 234	142 096	749 972	1.029	19.6	9.2	28.8	383	6.65	5.56	1.09
448	245 836	12 366	70 176	1.018	16.9	6.3	23.2	321	4.81	4.68	.13
175	366 650	18 666	56 922	1.018	14.1	5.9	20.0	254	3.82	3.80	.02
725	2 075 459	35 513	822 817	1.099	29.3	10.2	39.5	744	7.71	5.86	1.85
889	411 189	17 532	123 022	1.001	16.1	9.4	25.5	494	6.35	4.19	2.16

K. C. M. & O. of Tex	360 175	366 650	18 666	56 922	1.018	14.1	5.9	20.0
K. C. S	1 887 725	2 075 459	35 513	822 817	1.099	29.3	10.2	39.5
K. O. & G	410 889	411 189	17 532	123 022	1.001	16.1	9.4	25.5
K. O. & G. N. of Tex	10 566	10 575	.....	18 036	1.001	12.9	6.3	19.2
L. R. & N. Co	428 316	429 893	3 515	210 442	1.004	18.9	9.5	28.4
xL. R. & N. Co. of Tex	.....	.....	.....	.....	....	....	....	....
La. Western	309 790	319 063	27 594	83 830	1.030	28.0	15.8	43.8
M. K. T	2 907 020	2 985 109	139 038	1 033 158	1.027	27.8	15.2	43.0
M. K. T. of Tex	2 342 229	2 441 160	248 847	768 927	1.042	19.0	9.8	28.8
Mo. Pac	11 828 985	12 330 994	957 513	4 672 353	1.042	24.4	9.9	34.3
M. L. & T	607 353	630 464	96 372	533 338	1.038	26.5	10.7	37.2
N. O. T. & M	222 813	229 835	25 260	81 841	1.032	32.2	15.2	47.4
P. H. & S. F	1 156 060	1 190 328	2 025	13 218	1.030	29.8	13.9	43.7
St. L. B. & M	459 982	461 998	80 760	62 957	1.004	24.1	16.6	40.7
St. L. S. & F	9 117 185	9 391 824	1 150 110	3 012 513	1.030	17.9	8.9	26.8
St. L. S. F. & Tex	161 552	162 550	17 988	91 124	1.006	18.6	11.0	29.6
St. L. S. W	1 808 363	1 834 156	96 086	399 858	1.014	31.7	12.0	43.7
St. L. S. W. of Tex	1 193 805	1 214 151	109 416	372 054	1.017	15.4	8.6	24.0
S. A. & A. P	905 689	914 481	117 846	217 192	1.010	12.8	6.9	19.7
T. & Ft. S	129 668	131 538	3 726	116 283	1.014	29.1	12.3	41.4
Texas & N. O	954 715	963 229	87 685	748 866	1.009	19.9	12.5	32.4
Texas & Pacific	2 905 958	2 950 263	186 018	1 136 040	1.015	24.4	11.4	35.8
V. S. & P	317 076	323 105	22 206	216 084	1.019	18.2	8.4	26.6

d—Deficit.
x—Prior to March 31, 1923, part of M. K. T. Ry. of Texas.

[illegible]	[illegible]	[illegible]	[illegible]	1.018	16.9	6.3	23.2	321	4.81	4.68	.13
175	366 650	18 666	56 922	1.018	14.1	5.9	20.0	254	3.82	3.80	.02
725	2 075 459	35 513	822 817	1.099	29.3	10.2	39.5	744	7.71	5.86	1.85
889	411 189	17 532	123 022	1.001	16.1	9.4	25.5	494	6.35	4.19	2.16
566	10 575	.....	18 036	1.001	12.9	6.3	19.2	362	14.37	11.86	2.51
316	429 893	3 515	210 442	1.004	18.9	9.5	28.4	441	7.05	5.42	1.63
...	.....	.....	.....	.....	.....	.....	.....	...	.....	.....	.....
790	319 063	27 594	83 830	1.030	28.0	15.8	43.8	710	9.54	7.03	2.51
020	2 985 109	139 038	1 033 158	1.027	27.8	15.2	43.0	570	8.05	5.17	2.88
229	2 441 160	248 847	768 927	1.042	19.0	9.8	28.8	361	5.98	4.85	1.13
985	12 330 994	957 513	4 672 353	1.042	24.4	9.9	34.3	506	6.25	5.31	.94
353	630 464	96 372	533 338	1.038	26.5	10.7	37.2	620	9.99	9.73	.26
813	229 835	25 260	81 841	1.032	32.2	15.2	47.4	821	10.96	6.08	4.88
060	1 190 328	2 025	13 218	1.030	29.8	13.9	43.7	474	5.35	4.76	.59
982	461 998	80 760	62 957	1.004	24.1	16.6	40.7	458	7.54	4.58	2.96
185	9 391 824	1 150 110	3 012 513	1.030	17.9	8.9	26.8	384	6.01	4.62	1.39
552	162 550	17 988	91 124	1.006	18.6	11.0	29.6	410	8.98	6.56	2.42
363	1 834 156	96 086	399 858	1.014	31.7	12.0	43.7	659	8.99	5.10	3.89
805	1 214 151	109 416	372 054	1.017	15.4	8.6	24.0	288	5.07	5.67	d .60
689	914 481	117 846	217 192	1.010	12.8	6.9	19.7	213	4.97	4.17	.80
668	131 538	3 726	116 283	1.014	29.1	12.3	41.4	802	13.77	7.72	6.05
715	963 229	87 685	748 866	1.009	19.9	12.5	32.4	451	6.64	6.15	.49
958	2 950 263	186 018	1 136 040	1.015	24.4	11.4	35.8	475	7.48	6.05	1.43
076	323 105	22 206	216 084	1.019	18.2	8.4	26.6	395	7.34	6.09	1.25

d M. K. T. Ry. of Texas.

[fol. 293] Exhibit A-54 is based upon the data shown in exhibit A-51, A-52, and A-53. I have grouped the railroads, dividing them first as between Western Trunk Lines and Southwestern lines, and have shown three subdivisions for the Southwestern lines, designated as Texas lines, Louisiana lines and other southwestern lines (Tr. 4371).

Exhibit A-54 was received in evidence, which said exhibit, omitting title page, is in words and figures as follows:

(Here follows Exhibit No. A-54, side folios 294, 295, 296, 297, and 298)

[fol. 294]

EXHIBIT No. "A 54"
Parsons
Page 2
I. C. C. Docket 15234

	Year Ended December 31, 1924				
	Western Trunk Lines	Texas Lines	Louisiana Lines	Other Southwestern Lines	All Southwestern Lines
Average Miles of Road Operated	47 739	14 311	1 367	32 935	48 613
Railway Operating Revenues	$861 647 922	$222 289 822	$25 252 936	$603 410 743	$850 953 501
Railway Operating Expenses—					
Maintenance of Way & Structures	119 110 099	36 276 294	4 936 003	84 403 345	125 615 642
Maintenance of Equipment	183 964 666	41 491 574	4 834 705	130 332 256	176 658 535
Transportation	330 875 857	73 608 464	8 915 954	207 330 815	289 855 233
Other Expenses	41 498 306	12 615 763	1 944 601	28 063 280	42 623 644
Total Expenses	675 448 928	163 992 095	20 631 263	450 129 696	634 753 054
Net Railway Operating Revenues	186 198 994	58 297 727	4 621 673	153 281 047	216 200 447
Railway Tax Accruals	52 493 393	8 749 554	1 789 465	36 531 004	47 070 023
Uncollectible Railway Revenues	404 742	138 656	18 137	240 671	397 464
Railway Operating Income	133 300 859	49 409 517	2 814 071	116 509 372	168 732 960
Operating Ratio	78.39%	73.77%	81.70%	74.60%	74.59
Total Expense Ratio	84.53%	77.77%	88.86%	80.69%	80.17
Total Freight Service Revenue	$657 475 608	$171 349 497	$19 521 969	$451 536 138	$642 407 604
Freight Revenue	640 681 920	168 541 935	19 101 595	443 088 033	630 731 563
Railway Operating Expenses—Freight—					
Maintenance of Way & Structures	87 888 235	27 212 740	3 624 186	60 774 490	91 611 416
Maintenance of Equipment	140 434 551	32 191 810	3 757 234	97 452 542	133 401 586
Transportation	245 353 222	55 141 434	6 771 981	150 492 129	212 405 544
Other Expenses	23 704 622	7 633 259	1 271 901	16 850 796	25 755 956
Total Expenses	497 380 630	122 179 243	15 425 302	325 569 957	463 174 502
Net Freight Revenue	143 301 290	46 362 692	3 676 293	117 518 076	167 557 061
Net Freight Service Revenue	160 094 978	49 170 254	4 096 667	125 966 181	179 233 102

EXHIBIT No. "A 54"

Parsons

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31, 1924	Year Ended December 31, 1923						
	Other Southwestern Lines	All Southwestern Lines	Western Trunk Lines	Texas Lines	Louisiana Lines	Other Southwestern Lines	All Southwestern Lines
367	32 935	48 613	47 730	14 389	1 368	32 703	48 460
936	$603 410 743	$850 953 501	$916 770 803	$201 748 712	$25 911 343	$607 598 697	$835 258 752
003	84 403 345	125 615 642	126 682 554	34 210 396	4 597 796	81 254 153	120 062 345
705	130 332 256	176 658 535	208 708 741	43 380 922	5 162 898	144 271 547	192 815 367
954	207 330 815	289 855 233	357 615 563	72 175 284	8 831 855	212 960 329	293 967 468
601	28 063 280	42 623 644	41 079 182	11 428 488	1 845 339	26 294 074	39 567 901
263	450 129 696	634 753 054	734 086 040	161 195 090	20 437 888	464 780 103	646 413 081
673	153 281 047	216 200 447	182 684 763	40 553 622	5 473 455	142 818 594	188 845 671
465	36 531 004	47 070 023	48 388 188	7 312 425	1 972 803	37 651 224	46 936 452
137	240 671	397 464	226 440	130 482	14 135	216 618	361 235
071	116 509 372	168 732 960	134 070 135	33 110 715	3 486 517	104 950 752	141 547 984
70%	74.60%	74.59%	80.07%	79.89%	78.88%	76.49%	77.39%
86%	80.69%	80.17%	85.37%	83.58%	86.54%	82.73%	83.05%
069	$451 536 138	$642 407 604	.....	.....	.....	.....	.....
595	448 088 033	630 731 563	683 363 385	147 282 951	19 209 299	431 716 813	598 209 063
186	60 774 490	91 611 416	94 986 381	24 881 868	3 244 753	58 894 756	87 021 377
234	97 452 542	133 401 586	162 377 275	33 010 387	3 896 862	107 571 332	144 478 581
981	150 492 129	212 405 544	270 406 806	53 389 791	6 506 055	154 999 028	214 894 874
401	16 850 796	25 755 956	23 891 596	6 940 150	1 216 196	17 348 143	25 504 489
92	325 569 957	463 174 502	551 662 058	118 222 196	14 863 866	338 813 259	471 899 321
93	117 518 076	167 557 061	131 701 327	29 060 755	4 345 433	92 903 554	126 309 742
67	125 966 181	179 233 102					

Net Freight Revenue	143 301 290	46 362 692	3 676 293	117 518 076	167 557 061
Net Freight Service Revenue	160 094 978	49 170 254	4 096 667	125 966 181	179 233 102
Operating Ratio—Freight	x75.65%	x71.30%	x79.01%	x72.10%	x72.10%
Tons Revenue Freight	276 508 906	78 516 870	14 812 665	143 705 314	237 034 849
Ton Miles Revenue Freight	62 200 374 596	12 212 170 969	1 416 514 619	35 616 897 217	49 245 582 805
Car Miles—					
Loaded	2 771 387 425	594 529 611	59 915 201	1 765 529 949	2 419 974 761
Empty	1 492 031 447	317 417 476	31 334 521	906 110 183	1 254 862 180
Total	4 263 418 872	911 947 087	91 249 722	2 671 640 132	3 674 836 941
Freight Train Miles	107 282 473	25 074 068	2 397 121	68 249 716	95 720 905
Locomotive Miles—					
Freight Train	114 533 674	25 764 958	2 435 048	72 560 925	100 760 931
Train Switching	6 577 435	1 845 040	207 864	4 432 107	6 485 011
Yard Switching—Freight	51 491 321	8 689 061	1 527 044	26 268 102	36 484 207
Total Freight Service	172 602 430	36 299 059	4 169 956	103 261 134	143 730 149

x—Ratio of Freight Operating Expenses to Total Freight Service Revenue.

293	117 518 076	167 557 061	131 701 327	29 060 755	4 345 433	92 903 554	126 309 742
667	125 966 181	179 233 102					
.01%	x72.10%	x72.10%	80.73%	80.27%	77.38%	78.48%	78.89%
665	143 705 314	237 034 849	296 923 381	69 183 147	14 470 482	138 451 863	222 105 492
619	35 616 897 217	49 245 582 805	773 236 714	10 488 044 986	1 319 403 586	33 874 241 328	45 681 689 900
201	1 765 529 949	2 419 974 761	930 199 215	519 229 770	54 615 312	1 695 979 903	2 269 824 985
521	906 110 183	1 254 862 180	551 094 436	264 977 010	27 347 217	839 584 613	1 131 908 840
722	2 671 640 132	3 674 836 941	481 293 651	784 206 780	81 962 529	2 535 564 516	3 401 733 825
121	68 249 716	95 720 905	116 785 632	23 524 128	2 232 515	69 658 242	95 414 885
048	72 560 925	100 760 931	124 495 900	24 091 045	2 274 542	73 910 488	100 276 073
864	4 432 107	6 485 011	6 707 303	1 793 235	226 230	4 323 332	6 342 797
044	26 268 102	36 484 207	51 351 930	7 485 652	1 329 449	24 995 968	33 811 069
956	103 261 134	143 730 149	182 555 133	33 369 930	3 830 221	103 229 788	140 429 939

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Year Ended December 31, 1922

	Western Trunk Lines	Texas Lines	Louisiana Lines	Other Southwestern Lines	All Southwestern Lines
Average Miles of Road Operated	47 612	14 456	1 356	32 528	48 340
Railway Operating Revenues	$848 749 130	$191 061 960	$23 865 916	$562 810 127	$777 738 003
Railway Operating Expenses—					
Maintenance of Way & Structures	111 854 264	33 409 003	4 233 849	82 404 311	120 047 163
Maintenance of Equipment	186 607 709	39 348 979	4 890 804	117 998 295	162 238 078
Transportation	344 328 629	72 289 943	8 245 986	204 569 805	285 105 734
Other Expenses	39 374 784	11 608 788	1 760 836	25 029 674	38 399 298
Total Expenses	682 165 386	156 656 713	19 131 475	430 002 085	605 790 273
Net Railway Operating Revenues	166 583 744	34 405 247	4 734 441	132 808 042	171 947 730
Railway Tax Accruals	51 599 784	7 078 530	1 615 187	35 059 932	43 753 649
Uncollectible Railway Revenues	149 368	101 824	8 451	193 929	304 204
Railway Operating Income	114 834 592	27 224 893	3 110 803	97 554 181	127 889 877
Operating Ratio	80.37%	81.99%	80.16%	76.40%	77.89%
Total Expense Ratio	86.47%	85.75%	86.97%	82.67%	83.56%
Total Freight Service Revenue:					
Freight Revenue	$625 720 751	$138 956 817	$17 436 007	$402 851 058	$559 243 882
Railway Operating Expenses—Freight—					
Maintenance of Way & Structures	81 636 973	23 686 244	2 554 313	58 027 253	84 267 810
Maintenance of Equipment	144 822 316	29 967 678	4 049 889	88 692 178	122 709 745
Transportation	254 547 360	52 630 266	5 969 959	145 745 477	204 345 702
Other Expenses	23 372 601	8 015 942	1 525 261	15 950 340	25 491 543
Total Expenses	504 379 250	114 300 130	14 099 422	308 415 248	434 814 800
Net Freight Revenue	121 341 501	24 656 687	3 336 585	94 435 810	122 429 082

Total Expenses	364 379 250	114 300 130	14 099 422	308 415 248	434 814 800
Net Freight Revenue	121 341 501	24 656 687	3 336 585	94 435 810	122 429 082
Net Freight Service Revenue Operating Ratio—Freight	80.61%	82.25%	80.86%	76.56%	78.11%
Tons Revenue Freight	251 639 935	60 424 454	12 337 157	117 731 149	190 492 760
Ton-Miles Revenue Freight	59 211 310 641	9 446 458 647	1 127 954 558	29 415 762 941	39 990 176 146
Car Miles—					
Loaded	2 587 643 413	462 565 851	47 031 960	1 492 203 795	2 001 801 606
Empty	1 263 745 332	233 838 071	22 060 428	677 987 238	933 885 737
Total	3 851 388 745	696 403 922	69 092 388	2 170 191 033	2 935 687 343
Freight Train Miles	104 796 892	21 595 830	1 981 598	61 924 475	85 501 903
Locomotive Miles—					
Freight Train	111 858 932	22 129 095	2 031 650	65 319 918	89 480 663
Train Switching	6 017 997	1 557 077	179 009	4 012 667	5 748 753
Yard Switching—Freight	43 673 271	6 868 759	1 160 507	21 980 541	30 009 807
Total Freight Service	161 550 200	30 554 931	3 371 166	91 313 126	125 239 223

x Ratio of Freight Operating Expenses to Total Freight Service Revenue.

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	Year Ended December 31, 1924					Year Ended December		
	Western Trunk Lines	Texas Lines	Louisiana Lines	Other South-Western Lines	All South-Western Lines	Western Trunk Lines	Texas Lines	Louisiana Lines
Averages per Miles of Road								
Railway Operating Revenues	$18 049	$15 533	$18 473	$18 321	$17 505	$19 207	$14 021	$18 941
Railway Operating Expenses—								
Maintenance of Way & Structure	2 495	2 535	3 610	2 563	2 584	2 653	2 377	3 361
Maintenance of Equipment	3 854	2 899	3 537	3 957	3 634	4 373	3 015	3 774
Transportation	6 931	5 143	6 522	6 295	5 963	7 492	5 016	6 456
Other Expenses	869	882	1 423	852	877	862	795	1 349
Total Expenses	14 149	11 459	15 092	13 667	13 058	15 380	11 203	14 940
Net Railway Operating Revenues	3 900	4 074	3 381	4 654	4 447	3 827	2 818	4 001
Railway Tax Accruals	1 100	611	1 309	1 109	968	1 014	508	1 442
Uncollectible Railway Revenues	8	10	13	7	8	5	9	10
Railway Operating Income	2 792	3 453	2 059	3 538	3 471	2 808	2 301	2 549
Total Freight Service Revenue	$13 772	$11 973	$14 281	$13 710	$13 215	$14 317	$10 236	$14 042
Freight Revenue	13 421	11 777	13 973	13 453	12 975			
Railway Operating Expenses—Freight—								
Maintenance of Way & Structures	1 841	1 902	2 652	1 845	1 884	1 990	1 729	2 372
Maintenance of Equipment	2 942	2 249	2 748	2 959	2 745	3 402	2 294	2 849
Transportation	5 139	3 853	4 954	4 569	4 369	5 665	3 711	4 755
Other Expenses	497	533	930	512	530	501	482	889
Total Expenses	10 419	8 537	11 284	9 885	9 528	11 558	8 216	10 865
Net Freight Revenue	3 002	3 240	2 689	3 568	3 447	2 759	2 020	3 177
Net Freight Service Revenue	3 353	3 346	2 997	3 825	3 687			
Ton Miles Revenue Freight	1 302 926	853 342	1 036 221	1 081 430	1 013 012	1 398 978	728 893	964 476
Averages per Million Revenue Net Ton Miles								
Freight Revenue	$10 300	$13 801	$13 485	$12 440	$12 808	$10 234	$14 043	$14 559
Operating Expenses—Freight—								
Maintenance of Way & Structures	1 413	2 229	2 559	1 706	1 860	1 423	2 372	

r 31, 1924		Year Ended December 31, 1923					Year Ended December 31, 1922				
Other South-Western Lines	All South-Western Lines	Western Trunk Lines	Texas Lines	Louisiana Lines	Other South-Western Lines	All South-Western Lines	Western Trunk Lines	Texas Lines	Louisiana Lines	Other South-Western Lines	All South-Western Lines
$18 321	$17 505	$19 207	$14 021	$18 941	$18 579	$17 236	$17 827	$13 217	$17 600	$17 302	$16 088
2 563	2 584	2 653	2 377	3 361	2 485	2 478	2 349	2 311	3 122	2 533	2 483
3 957	3 634	4 373	3 015	3 774	4 412	3 979	3 920	2 722	3 607	3 628	3 356
6 295	5 963	7 492	5 016	6 456	6 511	6 066	7 232	5 001	6 082	6 289	5 898
852	877	862	795	1 349	804	816	827	803	1 298	769	794
13 667	13 058	15 380	11 203	14 940	14 212	13 339	14 328	10 837	14 109	13 219	12 531
4 654	4 447	3 827	2 818	4 001	4 367	3 897	3 499	2 380	3 491	4 083	3 557
1 109	968	1 014	508	1 442	1 151	969	1 084	490	1 191	1 078	905
7	8	5	9	10	6	7	3	7	6	6	6
3 538	3 471	2 808	2 301	2 549	3 210	2 921	2 412	1 883	2 294	2 999	2 646
$13 710	$13 215	$14 317	$10 236	$14 042	$13 201	$12 344	$13 142	$9 612	$12 858	$12 385	$11 569
13 453	12 975										
1 845	1 884	1 990	1 729	2 372	1 801	1 796	1 715	1 639	1 883	1 784	1 743
2 959	2 745	3 402	2 294	2 849	3 289	2 981	3 042	2 073	2 987	2 727	2 538
4 569	4 369	5 665	3 711	4 755	4 740	4 434	5 346	3 640	4 403	4 481	4 228
512	530	501	482	889	530	527	491	555	1 125	490	527
9 885	9 528	11 558	8 216	10 865	10 360	9 738	10 594	7 907	10 398	9 482	9 036
3 568	3 447	2 759	2 020	3 177	2 841	2 606	2 548	1 705	2 460	2 903	2 533
3 825	3 687										
1 081 430	1 013 012	1 398 978	728 893	964 476	1 035 814	942 668	1 243 622	653 463	831 825	904 321	827 269
$12 440	$12 808	$10 234	$14 043	$14 559	$12 745	$13 095	$10 568	$14 710	$15 458	$13 695	$13 984
1 706	1 860	1 423	2 372	2 459	1 739	1 905	1 379	2 508	2 265	1 973	2 107

Freight Revenue	$10 300	$13 801	$13 485	$12 440	$12 808	$10 234	$14 043	$14 559
Operating Expenses—Freight—								
Maintenance of Way & Structures	1 413	2 229	2 559	1 706	1 860	1 423	2 372	2 459
Maintenance of Equipment	2 258	2 636	2 652	2 736	2 709	2 432	3 147	2 954
Transportation	3 944	4 515	4 781	4 225	4 313	4 050	5 091	4 931
Other Expenses	381	625	898	472	523	357	662	922
Total Expense	7 996	10 005	10 890	9 140	9 405	8 262	11 272	11 266
Net Freight Revenue	2 304	3 796	2 595	3 300	3 403	1 972	2 771	3 293
Car Miles—								
Loaded	44 556	48 683	42 297	49 570	49 141	43 883	49 507	41 394
Empty	23 987	25 992	22 121	25 440	25 482	23 229	25 265	20 726
Total	68 543	74 675	64 418	75 010	74 623	67 112	74 772	62 120
Train Miles	1 725	2 053	1 693	1 916	1 944	1 749	2 243	1 692
Locomotive Miles—								
Train	1 841	2 110	1 719	2 037	2 046	1 864	2 297	1 724
Train Switching	106	151	147	124	132	100	171	171
Yard Switching	828	712	1 077	728	741	769	714	1 008
Total	2 775	2 973	2 943	2 899	2 919	2 733	3 182	2 903
Ratio of Train and Yard Switching to Total Locomotive Miles	33.66%	29.03%	41.59%	29.73%	29.91%	31.80%	27.81%	40.61%

5	$12 440	$12 808	$10 234	$14 043	$14 559	$12 745	$13 095	$10 568	$14 710	$15 458	$13 695	$13 984
9	1 706	1 860	1 423	2 372	2 459	1 739	1 905	1 379	2 508	2 265	1 973	2 107
2	2 736	2 709	2 432	3 147	2 954	3 176	3 163	2 446	3 172	3 590	3 015	3 069
1	4 225	4 313	4 050	5 091	4 931	4 576	4 704	4 299	5 571	5 293	4 955	5 110
8	472	523	357	662	922	511	558	395	849	1 352	542	627
0	9 140	9 405	8 262	11 272	11 266	10 002	10 330	8 519	12 100	12 500	10 485	10 923
5	3 300	3 403	1 972	2 771	3 293	2 743	2 765	2 049	2 610	2 958	3 210	3 061
7	49 570	49 141	43 883	49 507	41 394	50 067	49 688	43 702	48 967	41 697	50 728	50 057
1	25 440	25 482	23 229	25 265	20 726	24 785	24 778	21 343	24 754	19 558	23 048	23 353
3	75 010	74 623	67 112	74 772	62 120	74 852	74 466	65 045	73 721	61 255	73 776	73 410
3	1 916	1 944	1 749	2 243	1 692	2 056	2 089	1 770	2 286	1 757	2 105	2 138
0	2 037	2 046	1 864	2 297	1 724	2 182	2 195	1 889	2 343	1 801	2 221	2 238
7	124	132	100	171	171	128	139	102	165	159	136	144
7	728	741	769	714	1 008	738	740	738	727	1 029	747	750
3	2 899	2 919	2 733	3 182	2 903	3 048	3 074	2 729	3 235	2 989	3 104	3 132
%	29.73%	29.91%	31.80%	27.81%	40.61%	28.41%	28.59%	30.78%	27.57%	39.73%	28.45%	28.54%

	Year Ended December 31, 1924					Year Ended December 31, 1923			
	Western trunk lines	Texas lines	Louisiana lines	Other South-Western lines	All South-Western lines	Western trunk lines	Texas lines	Louisiana lines	Other South-Western lines
Averages per Freight Train Mile:									
Freight Revenue	$5.97	$6.72	$7.97	$6.49	$6.59	$5.85	$6.26	$8.61	$6.20
Operating Expenses—Freight	4.64	4.87	6.43	4.77	4.84	4.72	5.03	6.66	4.86
Net Freight Revenue	1.33	1.85	1.54	1.72	1.75	1.13	1.23	1.95	1.34
Tons Revenue Freight	580	487	591	522	514	572	446	591	486
Cars—									
Loaded	25.83	23.71	25.00	25.87	25.28	25.09	22.07	24.46	24.35
Empty	13.91	12.66	13.07	13.28	13.11	13.28	11.26	12.25	12.05
Total	39.74	36.37	38.07	39.15	38.39	38.37	33.33	36.71	36.40
Locomotive Miles—Train	1.068	1.028	1.016	1.063	1.053	1.066	1.024	1.019	1.061
Averages per Loaded Freight Car Mile:									
Freight Revenue	23.1c	28.4c	31.9c	25.1c	26.1c	23.3c	28.4c	35.2c	25.5c
Operating Expenses—Freight	17.9	20.6	25.8	18.4	19.2	18.8	22.8	27.2	20.0
Net Freight Revenue	5.2	7.8	6.1	6.7	6.9	4.5	5.6	8.0	5.5
Tons Revenue Freight	22.44	20.54	23.64	20.17	20.35	22.8	20.2	24.2	20.0
Ratio of Empty to Total Freight Car Miles	35.00%	34.81%	34.34%	33.92%	34.15%	34.61%	33.79%	33.37%	33.11%
Miscellaneous Averages:									
Miles Hauled—Revenue Freight	224.9	155.5	95.6	247.3	207.8	224.9	151.6	91.2	244.7
Revenue Per Ton of Freight	$2.317	$2.147	$1.290	$3.081	$2.661	$2.301	$2.129	$1.327	$3.118
Revenue Per Ton Mile of Freight—Mills	10.30	13.80	13.48	12.44	12.81	10.23	14.04	14.56	12.74
Ratio of Each Class of Expenses to Operating Revenues:									
Maintenance of Way & Structure	13.82%	16.32%	19.54%	13.98%	14.76%	13.82%	16.96%	17.75%	13.37%
Maintenance of Equipment	21.35	18.67	19.15	21.60	20.76	22.77	21.50	19.93	23.74
Transportation	38.40	33.11	35.31	34.36	34.06	39.00	35.77	34.08	35.5
Other Expenses	4.82	5.07	7.70	4.93	5.01	4.42	5.07	7.70	4.93

	Year Ended December 31, 1924					Year Ended December 31, 1923					Year Ended December 31, 1923			
rn k	Texas lines	Louisiana lines	Other South-Western lines	All South-Western lines	Western trunk lines	Texas lines	Louisiana lines	Other South-Western lines	All South-Western lines	Western trunk lines	Texas lines	Louisiana lines	Other South-Western lines	All South-Western lines
7	$6.72	$7.97	$6.49	$6.59	$5.85	$6.26	$8.61	$6.20	$6.27	$5.97	$6.43	$8.80	$6.51	$6.54
4	4.87	6.43	4.77	4.84	4.72	5.03	6.66	4.86	4.95	4.82	5.29	7.12	4.98	5.11
3	1.85	1.54	1.72	1.75	1.13	1.23	1.95	1.34	1.32	1.15	1.14	1.68	1.53	1.43
0	487	591	522	514	572	446	591	486	479	565	438	569	475	468
3	23.71	25.00	25.87	25.28	25.09	22.07	24.46	24.35	23.79	24.69	21.42	23.73	24.10	23.41
1	12.66	13.07	13.28	13.11	13.28	11.26	12.25	12.05	11.86	12.06	10.83	11.13	10.95	10.92
4	36.37	38.07	39.15	38.39	38.37	33.33	36.71	36.40	35.65	36.75	32.25	34.86	35.05	34.33
68	1.028	1.016	1.063	1.053	1.066	1.024	1.019	1.061	1.051	1.067	1.025	1.025	1.055	1.047
6	28.4c	31.9c	25.1c	26.1c	23.3c	28.4c	35.2c	25.5c	26.4c	24.2c	30.0c	37.1c	27.0c	27.9c
	20.6	25.8	18.4	19.2	18.8	22.8	27.2	20.0	20.8	19.5	24.7	30.0	20.7	21.8
	7.8	6.1	6.7	6.9	4.5	5.6	8.0	5.5	5.6	4.7	5.3	7.1	6.3	6.1
	20.54	23.64	20.17	20.35	22.8	20.2	24.2	20.0	20.1	22.9	20.4	24.0	19.7	20.0
%	34.81%	34.34%	33.92%	34.15%	34.61%	33.79%	33.37%	33.11%	33.27%	32.81%	33.58%	31.93%	31.24%	31.81%
	155.5	95.6	247.3	207.8	224.9	151.6	91.2	244.7	205.7	235.3	156.3	91.4	249.9	209.9
7	$2.147	$1.290	$3.081	$2.661	$2.301	$2.129	$1.327	$3.118	$2.693	$2.487	$2.299	$1.413	$3.422	$2.936
	13.80	13.48	12.44	12.81	10.23	14.04	14.56	12.74	13.09	10.57	14.71	15.46	13.70	13.98
%	16.32%	19.54%	13.98%	14.76%	13.82%	16.96%	17.75%	13.37%	14.37%	13.18%	17.49%	17.74%	14.64%	15.43%
	18.67	19.15	21.60	20.76	22.77	21.50	19.93	23.74	23.08	21.98	20.59	20.49	20.96	20.86
	33.11	35.31	34.36	34.06	39.00	35.77	34.08	35.5	35.19	40.57	37.83	34.55	36.35	36.66
	5.67	7.70	4.66	5.01	4.48	5.66	7.12	4.33	4.75	4.64	6.08	7.38	4.45	4.94

Maintenance of Equipment	21.35	18.67	19.15	21.60	20.76	22.77	21.50	19.93	23.74	23
Transportation	38.40	33.11	35.31	34.36	34.06	39.00	35.77	34.08	35.5	35
Other Expenses	4.82	5.67	7.70	4.66	5.01	4.48	5.66	7.12	4.33	4
Total Operating Expenses	78.39	73.77	81.70	74.60	74.59	80.07	79.89	78.88	76.49	77
Railway Tax Accruals	6.09	3.94	7.09	6.05	5.53	5.28	3.62	7.61	6.20	5
Uncollectible Railway Revenue	.05	.06	.07	.04	.05	.02	.07	.05	.04	
Total	84.53	77.77	88.86	80.69	80.17	85.37	83.58	86.54	82.73	83
Ratio of Each Class of Expenses to Total Operating Expense:										
Maintenance of Way & Structure	17.63%	22.12%	23.92%	18.75%	19.79%	17.26%	21.22%	22.50%	17.48%	18
Maintenance of Equipment	27.24	25.30	23.44	28.95	27.83	28.43	26.91	25.26	31.04	29
Transportation	48.99	4.89	43.22	46.06	45.66	48.72	44.78	43.21	45.82	45
Other Expenses	6.14	7.69	9.42	6.24	6.72	5.59	7.09	9.03	5.66	
Total	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100

1.35	18.67	19.15	21.60	20.76	22.77	21.50	19.93	23.74	23.08	21.98	20.59	20.49	20.96	20.86
8.40	33.11	35.31	34.36	34.06	39.00	35.77	34.08	35.5	35.19	40.57	37.83	34.55	36.35	36.66
4.82	5.67	7.70	4.66	5.01	4.48	5.66	7.12	4.33	4.75	4.64	6.08	7.38	4.45	4.94
8.39	73.77	81.70	74.60	74.59	80.07	79.89	78.88	76.49	77.39	80.37	81.99	80.16	76.40	77.89
6.09	3.94	7.09	6.05	5.53	5.28	3.62	7.61	6.20	5.62	6.08	3.71	6.77	6.23	5.63
.05	.06	.07	.04	.05	.02	.07	.05	.04	.04	.02	.05	.04	.04	.04
4.53	77.77	88.86	80.69	80.17	85.37	83.58	86.54	82.73	83.05	86.47	85.75	86.97	82.67	83.56
7.63%	22.12%	23.92%	18.75%	19.79%	17.26%	21.22%	22.50%	17.48%	18.57%	16.40%	21.33%	2.213%	19.16%	19.82%
7.24	25.30	23.44	28.95	27.83	28.43	26.91	25.26	31.04	29.83	27.35	25.12	25.57	27.44	26.78
8.99	4.89	43.22	46.06	45.66	48.72	44.78	43.21	45.82	45.48	50.48	46.14	43.10	47.58	47.06
6.14	7.69	9.42	6.24	6.72	5.59	7.09	9.03	5.66	6.12	5.77	7.41	9.20	5.82	6.34
0.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00

[fol. 298]

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Location and Distribution by Territories of Mileage Operated by Railroads in Western Trunk Line and Southwestern Groups

Group	States in which located	1924 Average miles operated	1924 Percentage of total for group	1923 Average miles operated	1923 Percentage of total for group	1922 Average miles operated	1922 Pe...
Western Trunk Lines	Illinois, Iowa, Michigan, Minnesota, Missouri, Wisconsin	30 130.07	63.11%	30 128.45	63.12%	30 067.15	
	Other States (See Note 1)	17 608.45	36.89	17 601.08	36.88	17 544.78	
	Total	47 738.52	100.00	47 729.53	100.00	47 611.93	
Texas Lines	Texas	13 318.39	93.07%	13 381.30	93.00%	13 463.42	
	Arkansas, Louisiana, Oklahoma	992.10	6.93	1 007.84	7.00	992.60	
	Total	14 310.49	100.00	14 389.14	100.00	14 456.02	
Louisiana Lines	Louisiana	1 367.46	100.00%	1 368.25	100.00%	1 355.48	
Other Southwestern Lines	Arkansas, Louisiana, Missouri, Oklahoma	15 848.29	48.12%	15 780.74	48.25%	15 937.01	
	Illinois, Iowa, Minnesota	3 610.32	10.96	3 609.62	11.04	3 629.49	
	Other States	13 476.52	40.92	13 312.29	40.71	12 961.80	
	Total	32 935.13	100.00	32 702.65	100.00	32 528.30	
All Southwestern Lines	Arkansas, Louisiana, Missouri, Oklahoma, Texas	31 526.24	64.85%	31 538.13	65.08%	31 748.51	
	Other States (See Note 2)	17 086.84	35.15	16 921.91	34.92	16 591.29	
	Total	48 613.08	100.00	48 460.04	100.00	48 339.80	

NOTE 1. Mileage of 17 608.45 operated by Western Trunk Lines in "Other States" in 1924 distributed as follows:

East of Indiana-Illinois State Line	1 516.23 Miles
South of Ohio River	1 793.28 "
Kansas	284.53 "
Nebraska	4 298.94 "
South Dakota	3 779.82 "
North Dakota	1 706.08 "
Colorado	430.56 "
Wyoming	1 002.45 "
Montana	1 472.27 "
Idaho	233.54 "
Washington	1 090.75 "

NOTE 2. Mileage of 17 086.84 operated by Southwestern Lines ... States" in 1924 distributed as follows:

Illinois	1 02...
Iowa	2 30...
Minnesota	28...
Kansas	7 61...
Nebraska	70...
South Dakota	8...
Colorado	91...
New Mexico	1 57...
Arizona	86...
California	1 51...
Mississippi Valley	2...

Location and Distribution by Territories of Mileage Operated by Railroads in Western Trunk Line and Southwestern Groups

Group	States in which located	1924 Average miles operated	1924 Percentage of total for group	1923 Average miles operated	1923 Percentage of total for group	1922 Average miles operated	1922 Percentage of total for group
Trunk Lines	Illinois, Iowa, Michigan, Minnesota, Missouri, Wisconsin	30 130.07	63.11%	30 128.45	63.12%	30 067.15	63.15%
	Other States (See Note 1)	17 608.45	36.89	17 601.08	36.88	17 544.78	36.85
	Total	47 738.52	100.00	47 729.53	100.00	47 611.93	100.00
nes	Texas	13 318.39	93.07%	13 381.30	93.00%	13 463.42	93.13%
	Arkansas, Louisiana, Oklahoma	992.10	6.93	1 007.84	7.00	992.60	6.87
	Total	14 310.49	100.00	14 389.14	100.00	14 456.02	100.00
Lines	Louisiana	1 367.46	100.00%	1 368.25	100.00%	1 355.48	100.00%
thwestern Lines	Arkansas, Louisiana, Missouri, Oklahoma	15 848.29	48.12%	15 780.74	48.25%	15 937.01	48.99%
	Illinois, Iowa, Minnesota	3 610.32	10.96	3 609.62	11.04	3 629.49	11.16
	Other States	13 476.52	40.92	13 312.29	40.71	12 961.80	39.85
	Total	32 935.13	100.00	32 702.65	100.00	32 528.30	100.00
western Lines	Arkansas, Louisiana, Missouri, Oklahoma, Texas	31 526.24	64.85%	31 538.13	65.08%	31 748.51	65.68%
	Other States (See Note 2)	17 086.84	35.15	16 921.91	34.92	16 591.29	34.32
	Total	48 613.08	100.00	48 460.04	100.00	48 339.80	100.00

Mileage of 17 608.45 operated by Western Trunk Lines in "Other s" in 1924 distributed as follows:

diana-Illinois State Line	1 516.23	Miles
Ohio River	1 793.28	"
	284.53	"
	4 298.94	"
kota	3 779.82	"
kota	1 706.08	"
	430.56	"
	1 002.45	"
	1 472.27	"
	233.54	"
n	1 090.75	"

NOTE 2. Mileage of 17 086.84 operated by Southwestern Lines in "Other States" in 1924 distributed as follows:

Illinois	1 025.52	Miles
Iowa	2 304.41	"
Minnesota	280.39	"
Kansas	7 613.70	"
Nebraska	708.04	"
South Dakota	83.14	"
Colorado	916.68	"
New Mexico	1 571.14	"
Arizona	868.52	"
California	1 517.64	"
Mississippi Valley	297.66	"

	Other States (See Note 1)	17 608.45	36.89	17 601.08	36.88
	Total	47 738.52	100.00	47 729.53	100.00
Texas Lines	Texas	13 318.39	93.07%	13 381.30	93.00%
	Arkansas, Louisiana, Oklahoma	992.10	6.93	1 007.84	7.00
	Total	14 310.49	100.00	14 389.14	100.00
Louisiana Lines	Louisiana	1 367.46	100.00%	1 368.25	100.00%
Other Southwestern Lines	Arkansas, Louisiana, Missouri, Oklahoma	15 848.29	48.12%	15 780.74	48.25%
	Illinois, Iowa, Minnesota	3 610.32	10.96	3 609.62	11.04
	Other States	13 476.52	40.92	13 312.29	40.71
	Total	32 935.13	100.00	32 702.65	100.00
All Southwestern Lines	Arkansas, Louisiana, Missouri, Oklahoma, Texas	31 526.24	64.85%	31 538.13	65.08%
	Other States (See Note 2)	17 086.84	35.15	16 921.91	34.92
	Total	48 613.08	100.00	48 460.04	100.00

NOTE 1. Mileage of 17 608.45 operated by Western Trunk Lines in "Other States" in 1924 distributed as follows:

East of Indiana-Illinois State Line	1 516.23	Miles
South of Ohio River	1 793.28	"
Kansas	284.53	"
Nebraska	4 298.94	"
South Dakota	3 779.82	"
North Dakota	1 706.08	"
Colorado	430.56	"
Wyoming	1 002.45	"
Montana	1 472.27	"
Idaho	233.54	"
Washington	1 090.75	"
Total	17 608.45	"

NOTE 2. Mileage of 17 086.84 operated by So States" in 1924 distributed as follows:

Illinois	
Iowa	
Minnesota	
Kansas	
Nebraska	
South Dakota	
Colorado	
New Mexico	
Arizona	
California	
Mississippi Valley	
Total	

Grouping of Railroads Used in This Exhibit

Western Trunk Lines			Texas Lines				Southwestern Lines Louisiana Lines
C.&A.	C.M.&St.P.	Q.O.&K.C.	B.S.L.&W.	H.&T.C.	L.R.&N. of T.	St.L.S.W. of T.	H.&S.
C.&E.I.	C.St.P.M.&O.	Wabash	C.R.I.&G.	H.E.&.W.T.	M.K.T. of T.	S.A.&A.P.	L.R.&N. Co.
C.&N.W.	I.C.		Ft.W.&D.C.	I-G.N.	P.&S.F.	T.&Ft.S.	La. Western
C.B.&Q.	M.&St.L.		G.H.&S.A.	K.C.M.&O. of T.	St.L.B.&M.	T.&N.O.	M.L.&T.
C.G.W.	N.St.P.&S.S.M.		G.C.&S.F.	K.O.&G. of T.	St.L.S.F. & T.	T.&P.	N.O.T.M.
							V.S.&P.

ther States (See Note 1)	17 608.45	36.89	17 001.08	36.83	17 611.93	36.80
Total	47 738.52	100.00	47 729.53	100.00	47 611.93	100.00
exas	13 318.39	93.07%	13 381.30	93.00%	13 463.42	93.13%
rkansas, Louisiana, Oklahoma	992.10	6.93	1 007.84	7.00	992.60	6.87
Total	14 310.49	100.00	14 389.14	100.00	14 456.02	100.00
ouisiana	1 367.46	100.00%	1 368.25	100.00%	1 355.48	100.00%
rkansas, Louisiana, Missouri, Oklahoma	15 848.29	48.12%	15 780.74	48.25%	15 937.01	48.99%
linois, Iowa, Minnesota	3 610.32	10.96	3 609.62	11.04	3 629.49	11.16
ther States	13 476.52	40.92	13 312.29	40.71	12 961.80	39.85
Total	32 935.13	100.00	32 702.65	100.00	32 528.30	100.00
rkansas, Louisiana, Missouri, Oklahoma, Texas	31 526.24	64.85%	31 538.13	65.08%	31 748.51	65.68%
ther States (See Note 2):	17 086.84	35.15	16 921.91	34.92	16 591.29	34.32
Total	48 613.08	100.00	48 460.04	100.00	48 339.80	100.00

8.45 operated by Western Trunk Lines in "Other ated as follows:

e Line	1 516.23 Miles
	1 793.28 "
	284.53 "
	4 298.94 "
	3 779.82 "
	1 706.08 "
	430.56 "
	1 002.45 "
	1 472.27 "
	233.54 "
	1 090.75 "
	17 608.45 "

NOTE 2. Mileage of 17 086.84 operated by Southwestern Lines in "Other States" in 1924 distributed as follows:

Illinois	1 025.52 Miles
Iowa	2 304.41 "
Minnesota	280.39 "
Kansas	7 613.70 "
Nebraska	708.04 "
South Dakota	83.14 "
Colorado	916.68 "
New Mexico	1 571.14 "
Arizona	868.52 "
California	1 517.64 "
Mississippi Valley	297.66 "
Total	17 086.84 "

Grouping of Railroads Used in This Exhibit

es	Texas Lines				Southwestern Lines Louisiana Lines	Other Southwestern Lines	
Q.O.&K.C.	B.S.L.&W.	H.&T.C.	L.R.&N. of T.	St.L.S.W. of T.	H.&S.	A.T.&S.F.	M.K.T.
Wabash	C.R.I.&G.	H.E.&W.T.	M.K.T. of T.	S.A.&A.P.	L.R.&N. Co.	C.R.I.&P.	M.P.
	Ft.W.&D.C.	I-G.N.	P.&S.F.	T.&Ft.S.	La. Western	K.C.M.&O.	St.L.-S.F.
	G.H.&S.A.	K.C.M.&O. of T.	St.L.B.&M.	T.&N.O.	M.L.&T.	K.C.S.	St.L.S.W.
	G.C.&S.F.	K.O.&G. of T.	St.L.S.F. & T.	T.&P.	N.O.T.M.	K.O.&G.	
					V.S.&P.		

[fol. 299] On page 5 of the exhibit there will be found at the bottom of the page a list of those roads designated Western Trunk Lines, and of the three groups of Southwestern lines; the three together comprising what I have termed in the exhibit all Southwestern lines.

First I would like to refer briefly to the location of the lines of these several groups of railroads, as shown by page 5.

Taking the year 1924, the Western Trunk Lines operated a total mileage of 47,738.52, and of that mileage 30,130.07 miles, or 83.11 per cent, is located in the States of Iowa, Illinois, Michigan, the Upper Peninsula, Minnesota, Missouri and Wisconsin, and 17,608.45 miles, or 36.89 per cent, in other states.

By note 1 in the center of the page I have shown, as between the several states, where this 17,000 odd miles of railroad is distributed (Tr. 4371).

The Texas lines, twenty in number, are those having all, or substantially all, of their mileage in the State of Texas, excepting in the case of the Texas & Pacific Railway, which also has a considerable mileage in Louisiana and a few miles in Arkansas, but 93.07 per cent of the mileage of the roads grouped as Texas lines is in the State of Texas (Tr. 4371-4372).

The Louisiana lines include only six roads, all of whose mileage is in the State of Louisiana. Then for other south-
[fol. 300] western lines I have grouped those larger systems whose lines extend through several states. There are nine of those roads named in the lower right-hand corner of the page. Their total mileage is 32,935.13 and 15,848.29 miles of this, or 48.12 per cent, is in the States of Arkansas, Louisiana, Missouri and Oklahoma; 3,610.32 miles, or 10.96 per cent, is in the States of Illinois, Iowa and Minnesota, and 13,476.52 miles or 40.92 per cent is in other states.

Taking all of the southwestern roads as a single group, 31,526.24 or 64.85 per cent of the operated mileage is in the States of Arkansas, Louisiana, Missouri, Oklahoma and Texas, and 17,086.84 miles or 35.15 per cent in other states.

Note 2 on the same page shows the distribution of states of this 17,000 odd miles of railroad. The figures I have just cited are for 1924. They differ but slightly from 1923

and 1922, as will be seen by a comparison of the figures on page 5 (Tr. 4372).

Returning now to page 2, I have shown there for the three years the average miles of road operated, the railway operating revenues and expenses, the net railway operating revenue, the railway tax accruals, uncollectable revenue, and the remaining railway operating income, the operating ratio, which is the ratio of operating expenses to revenue, and total expense, which is the ratio of operating expenses, taxes and uncollectable revenues to railway operating revenue (Tr. 4372-4373).

[fol. 301] Citing a few figures from the year 1924 it will be seen that the Western Trunk Lines operated 47,739 miles of railroad and the southwestern lines 48,613.

The railway operating revenues of the Western Trunk Lines were in excess of $861,000,000, and of the Southwestern lines in excess of $850,000,000.

The operating expenses for the Western Trunk Lines were a little over $675,000,000, and for the Southwestern lines over $834,000,000; the net railway operating revenues of the Western Trunk Lines were about $186,000,000, and for the Southwestern line $216,000,000.

The taxes on the Western Trunk Lines were a little more than $52,000,000, and on the Southwestern lines a little more than $47,000,000.

The railway operating income of the Western Trunk Lines about $133,000,000, and for the Southwestern lines $168,000,000, with operating ratios of 78.39 per cent on the Western Trunk Lines and 74.59 per cent on the Southwestern lines; the total expense ratio of the Western Trunk Lines was 84.53 per cent, and on the Southwestern lines 80.17 per cent (Tr. 4373).

Following the figures I have just referred to are shown the freight service revenues and expenses. The total freight service revenue is shown only for 1924, but the freight revenue account 101 is shown for each of the three years.

The operating ratio freight for 1924 is the ratio of freight operating expenses to total freight service revenue, while for the years 1923 and 1922 the freight operating ratio is the ratio of freight operating expenses to freight revenue, account 101 (Tr. 4373-4374).

[fol. 302] To complete the comparison the ratio in 1924 of operating expenses assigned to freight service, to freight service, to freight revenue, was 77.63 per cent on the Western Trunk Lines, 72.49 per cent on the Texas lines, 80.75 per cent on the Louisiana lines, and 73.48 per cent on the other Southwestern lines, and 73.44 per cent on all Southwestern lines.

The remaining figures on page 2 show the tons of revenue freight carried, ton miles, car miles, freight train miles, and locomotive miles. These are merely a consolidation of figures from the preceding exhibits according to the roads as I have grouped them, and explained on page 5 of the exhibit (Tr. 4374).

The Santa Fe and Rock Island although serving both groups are used solely in the Southwestern group. The average miles of road operated referred to means the average miles operated during the year as distinguished from the miles operated as of the 31st of December. When I refer to the miles operated by the Western Trunk Lines, 47,739 miles, I mean the average mileage operated by all Western Trunk lines during that year wherever they operated, that is the total mileage operated by the twelve roads shown on page 5 wherever situated. I have shown on page 5 that of 47,738 miles operated, 30,120 miles was located in the six Western Trunk Line states (Tr. 4374-4375).

[fol. 303] On page 2 the separation of the Southwestern Lines is in three sub-groups, the first the Texas lines, those having all or substantially all of their mileage in Texas, the next the Louisiana lines, having all of their mileage in Louisiana, and the third, the remaining Southwestern Lines. Then the total of the three groups is shown. I did not make a separation of the twelve Western Trunk Lines, because I found no natural separation in which they could be subdivided. All of the detailed figures are in the three preceding exhibits, and it is possible to make up figures for any group that may be desired (Tr. 4375-4376).

The railway operating expenses, freight, shown in the center of page 2, are the expenses assigned for freight service. At the top of the page the railway operating expenses are the total railway operating expenses assignable to all

service. I did not distribute taxes between freight and passenger. They are not distributed in the reports to the Commission (Tr. 4376). On page 3, on the upper half of the page, I have shown the average per mile of road which are obtained by dividing the figures shown on page 2 by the average miles of road operated. Thus, in 1924 the railway operating revenues per mile of road of the Western Trunk Lines were $18,049, and of the Southwestern lines, $17,505.

The operating expenses for the Western Trunk Lines, $14,149, and for the Southwestern lines, $13,088, leaving a net railway operating revenue of $3,900 for the Western Trunk Lines and $4,447 for the Southwestern lines.

After deducting taxes and uncollectable railway revenues the remaining railway operating income was $2,792 per mile of road for the Western Trunk Lines, and $3,471 for the Southwestern lines.

The next set of figures are similar averages of freight revenue, freight expenses and net freight revenue; then are shown the ton miles of revenue freight.

[fol. 304] In 1924 on the Western Trunk Lines the average density was 1,302,926 ton miles per mile of road, and on the Southwestern roads 1,013,012.

Next we have the averages per million revenue net ton miles and those averages are obtained by dividing the freight revenues, expense, car miles, train miles, locomotive miles, by ton miles of revenue freight reduced to millions.

On the Western Trunk Lines the freight revenue, account 101, in 1924 amounted to $10,300 per million revenue ton miles, and on the Southwestern roads $12,808.

The expenses of the Western Trunk Lines were $7,998 per million ton miles, and of the Southwestern lines, $9,405, leaving a net freight revenue for the Western Trunk Lines of $2,304, and for the Southwestern lines of $3,403 (Tr. 4376-4377-4378).

The Southwestern lines, as I have shown here, have a lesser traffic density than the Western Trunk Lines and they have a higher return per ton mile; they have a higher operating expense per ton mile, but the difference between their operating expenses and their earnings as compared with Western Trunk Lines leave them a substantially greater net.

Exam. Disque: Now, suppose you add to their expense per million revenue net ton miles the amount necessary to yield six per cent return on the value of the properties; to what extent would that change these figures?

The Witness: I think you have the answer to that more readily under the averages per mile of road, because the return on investment necessarily must be related to the property and not to the volume of traffic moving over the railroad. You will see there that the railway operating revenues in the Southwest, taking all of the Southwestern lines as one group, amounted to $17,505, and their operating expenses were $13,058, and their taxes $968, and their uncollected revenue $8. Deducting all of that from the railway operating revenues there remained a railway operat-[fol. 305] ing income of $3,471 per mile of road. That is the amount remaining to pay, hire of requipment, joint facility rents, interest, fixed charges and other corporate expenses (Tr. 4378-4379).

I have not shown the net railway operating income in any of these exhibits. That was done in Mr. Balch's exhibit A50. That is used to determine the rate of return under the law. These exhibits merely carry the figures down to the result of the operation of the railroad after the payment of taxes (Tr. 4379).

The Western Trunk Lines, while having a greater amount of traffic as reflected by the ton miles per mile of road, the railway operating revenue was $18,049, expenses $14,149, taxes of $1,100, and uncollectible revenue of $8. That left a railway operating net income of $2,792 per mile of road from which to pay their joint facility rents, hire of equipment, interest and other fixed charges.

The amount of service required to transport one million tons of freight one mile is shown on page 3 of the exhibit by the car miles, train miles and locomotive miles.

As will be seen on page 4, the average train load, or rather, the average tons of revenue freight per train mile on the Southwestern lines was 514, and on the Western Trunk Lines, 580, consequently there is a larger number of train miles in the Southwest per million revenue ton miles than on the Western Trunk Lines, the Southwestern roads operating 9,144 per million ton miles and the Western

Trunk Lines 1,725; similarly, the average carloading in the Southwest is a little below the Western Trunk Lines, in 1924 being 20.35 per car mile on the Southwestern lines and 22.44 on the Western Trunk Lines.

Therefore, you find that the Southwestern lines accrued 49,141 loaded car miles to transport a million tons one mile and the Western Trunk Lines 44,556.

The empty car miles are about in proportion, although a little greater on the Western Trunk Lines than on the Southwestern lines, as will be seen on page 4; the ratio of [fol. 306] empty to total freight car miles in the Southwest being 34.15 per cent, and in Western Trunk Line territory, 35 per cent.

With a larger number of train miles per traffic unit there is a correspondingly greater train locomotive mileage. The miles of train locomotives per million ton miles in the Southwest being 2,046 as against 1,841 in Western Trunk Line territory. The Southwestern lines also had a little higher ratio of train switching, but a lower ratio of yard switching, and the total locomotive miles per traffic unit in the Southwest were 2,919 compated with 2,775 on the Western Trunk Lines.

The ratio of the switching service,—that is, train and yard switching, locomotive miles to total locomotive miles in the Southwest, was 29.91 per cent, and in the Western Trunk Line territory 33.68 per cent. That is, of the total locomotive mileage operating during the year, the Southwestern lines employed about 30 per cent in switching service and Western Trunk Lines 33⅓ per cent (Tr. 4379-4380-4381).

I have not enumerated hire of equipment, joint facility rent or net railway operating income in the Southwest versus Western Trunk Line. I have merely carried these exhibits down to the railway operating income, hire of equipment and joint facility rents, which are in lieu of the ownership of the facilities and property with which to do business. Mr. Balch has introduced an exhibit showing the net income, property investment and rate of return, and inasmuch as he has given that information I have not duplicated it (Tr. 4381-4382).

Page 4 of exhibit 54 carries on the comparisons showing the average per freight train mile, the average per loaded

freight car mile, and miscellaneous averages, average distance hauled, the revenue per ton mile and ratio of expense to revenue and ratio of each class of expense to total operating expense (Tr. 4382).

[fols. 307] Exhibit A-55 is for the period of eight months ended August 31, 1925, and shows average miles operated, railway operating revenues and expenses, net revenue and operating ratios for the carriers listed on the left-hand margin, excepting the Houston & Shreveport and K. O. & G. Railroad of Texas. Those are class 2 carriers and I was unable to obtain that data for those two roads (Tr. 4383-4384).

Exhibit A-55 was received in evidence, which said exhibit, omitting title page, is in words and figures as follows:

(Here follows Exhibit No. A-55, side folios 308 and 309)

[fol. 308]

EXHIBIT No. "A-55"

Parsons

Page 1

1925

I. C. C. Docket 15234

Revenue and Traffic Statistics of Respondent Carriers
In Western Trunk Line Territory and Southwestern Territory for Eight Months Ended August 31, 1925

Railroad	Average miles of road operated	Railway operating revenue	Railway operating expenses	Net operating revenue	Operating ratio	Freight revenue	Ton miles revenue freight	Revenue per ton mile mills
Chicago & Alton	1 055.92	$19 868 462	$15 221 844	$4 646 618	76.6%	$13 886 602	1 357 742 000	10.23
C. &. E. I.	945.13	16 796 464	14 395 315	2 401 149	85.7	12 485 807	1 447 644 000	8.62
C. & N. W.	8 462.83	94 851 078	74 859 669	19 991 409	78.9	66 203 655	5 138 976 000	12.88
C. B. & Q.	9 397.55	100 954 369	76 235 816	24 718 553	75.5	74 275 070	7 613 171 000	9.76
C. G. W.	1 496.06	15 476 024	13 084 792	2 391 232	84.5	11 822 193	1 224 860 000	9.65
C. M. & St. P.	11 204.98	102 268 013	86 461 644	15 806 369	84.5	78 457 592	7 512 680 000	10.44
C. St. P. M. & O.	1 749.19	17 278 468	14 056 039	3 222 429	81.4	12 361 728	1 000 397 000	12.36
Illinois Central	4 875.05	98 282 605	76 136 964	22 145 641	77.5	74 283 367	8 364 075 000	8.88
M. & St. L.	1 638.26	9 494 471	8 987 651	506 820	94.7	8 139 848	775 709 000	10.49
M. St. P. & S. S. M.	4 402.08	30 138 227	23 521 726	6 616 501	78.0	23 343 579	2 045 964 000	11.41
Q. O. & K. C.	250.84	644 980	705 741	Def 60 761	109.4	457 543	30 415 000	15.04
Wabash	2 524.20	44 906 913	34 224 186	10 682 727	76.2	35 572 618	3 358 611 000	10.59
A. T. & S. F.	9 185.17	122 202 783	90 307 721	31 895 062	73.9	b 90 343 273	b 6 869 878 000	b 13.15
B. S. L. & W.	118.75	1 869 040	1 238 614	630 426	66.3	c	c	c
C. R. I. & G.	461.23	4 043 280	3 021 270	1 022 010	74.7	d	d	d
C. R. I. & P.	7 578.39	80 277 257	64 204 414	16 072 843	80.0	d 61 844 501	d 5 155 724 000	d 12.00
Ft. W. & D. C.	468.71	6 887 906	4 707 877	2 180 029	68.3	5 062 742	335 234 000	15.10
G. H. & S. A.	2 103.23	18 987 093	16 130 141	2 856 952	85.0	e	e	e
Gulf Coast Lines	c 921.74	.....	.....	.....	....	c 8 120 616	c 618 482 000	13.13
G. C. & S. F.	1 908.84	18 350 069	14 782 953	3 567 116	80.6	15 186 016	1 579 449 000	9.61
H. & S.	a	.....	.....	.....	....	.....	.....	.....
H. & T. C.	929.14	9 454 858	7 655 151	1 799 707	81.0	e	e	e
H. E. & W. T.	191.60	2 125 881	1 667 146	458 735	78.4	e	e	e
I. G. N.	1 159.50	10 791 365	8 889 723	1 901 642	82.4	8 316 003	497 932 000	16.70
K. C. M. & O.	272.20	1 759 138	1 556 129	203 009	88.5	1 636 529	132 822 000	12.32
K. C. M. & O. of Tex.	465.75	2 184 294	1 707 241	477 053	78.2	2 004 770	146 278 000	13.71
K. C. S.	784.09	11 807 000	8 538 014	3 268 986	72.3	f [illegible]	f [illegible]	f 11.03

K. C. M. & O. of Tex.	465.75	2 184 294	1 707 241	477 053	78.2	2 004 770	146 278 000	13.71
K. C. S.	784.09	11 807 000	8 538 014	3 268 986	72.3	f 11 352 613	f 1 029 289 000	f 11.03
K. O. & G.	314.42	1 457 347	1 428 319	29 028	98.0	1 355 272	117 492 000	11.54
K. O. & G. of Tex.	a	.....	.....	.....	....	.....	.....	.....
L. R. & N. Co.	337.63	2 437 514	2 060 402	377 112	84.5	2 144 124	144 872 000	14.80
L. R. & N. Co. of Tex.	206.08	813 487	744 468	69 019	91.5	698 901	53 332 000	13.10
La. Western	207.74	2 692 312	2 139 052	553 260	79.4	e	e	e
M. K. T.	1 799.31	22 722 724	14 291 118	8 431 606	62.9	17 869 027	1 375 451 000	12.99
M. K. T. of Tex.	1 389.23	13 881 810	11 234 222	2 647 588	80.9	9 871 945	830 473 000	11.89
Mo. Pac.	7 337.57	84 546 073	67 247 834	17 298 239	79.5	67 134 503	6 197 647 000	10.83
M. L. & T.	400.67	5 312 845	5 046 621	266 224	95.0	e	e	e
N. O. T. & M.	191.22	2 277 295	1 579 313	697 982	69.4	c	c	c
P. H. & S. F.	858.49	6 500 316	4 725 952	1 774 364	72.7	b	b	b
St. L. B. & M.	550.22	5 709 859	3 397 947	2 311 912	59.5	c	c	c
St. L. S. F.	4 902.12	57 432 102	40 302 483	17 129 619	70.2	42 594 682	3 220 573 000	13.23
St. L. S. F. & Tex.	137.95	1 382 729	1 038 501	344 228	75.1	1 235 286	58 324 000	21.18
St. L. S. W.	944.23	11 534 456	8 079 678	3 454 778	70.0	9 901 559	737 848 000	13.38
St. L. S. W. of Tex.	807.20	4 836 825	5 015 304	Def 178 479	103.7	3 907 170	223 482 000	17.48
S. A. & A. P.	g 739.36	2 027 200	2 152 251	Def 125 051	106.2	1 705 803	84 732 000	20.13
Sou. Pac. Lines	e 4 562.48	.....	.....	.....	....	e 35 028 091	e 2 679 548 000	e 13.07
T. & Ft. S.	81.08	1 981 461	1 138 755	842 706	57.5	f	f	f
Texas & N. O.	539.92	7 235 085	5 756 768	1 478 317	79.6	e	e	e
Texas & Pacific	1 952.78	21 546 085	17 015 503	4 530 582	79.0	15 702 485	1 104 229 000	14.22
V. S. & P.	188.46	2 810 653	2 203 779	606 874	78.4	2 126 226	152 658 000	13.93

a–Data not available.
b–Data shown for A. T. & S. F. includes Panhandle and Santa Fe.
c–Data shown for Gulf Coast Lines includes B. S. L. & W.—N. O. T. & M.—O. & N. W.—St. L. B. & M.
d–Data shown for G. R. I. & P. includes C. R. I. & G.
e–Data shown for Southern Pacific Lines in Texas and Louisiana includes F. & A.—G. H. & S. A.—H. & S.—H. & T. C.—H. E. & W. T.—I. & V.—L. C. & N.—La. Western—M. L. & T.—T. & N. O.—and S. A. & A. P. from May 1, 1925.
f–Data shown for K. C. S. includes Texarkana & Fort Smith.
g–Data shown for S. A. & A. P. for four months ended April 30, 1925. Subsequent to that date included in G. H. & S. A.

[fol. 309]

1925

I. C. C. 15234

Eight Months Ended August 31, 1925

	Western trunk lines	Texas lines	Louisiana lines	Other Southwestern lines	All Southwestern lines
Average Miles of Road Operated	48 002	14 330	1 326	33 117	48 773
Railway Operating Revenues	$550 960 074	$140 608 643	$15 530 619	$393 738 880	$549 878 142
Railway Operating Expenses	437 891 387	112 019 787	13 209 167	295 955 710	421 004 664
Net Railway Operating Revenue	113 068 687	28 588 856	2 501 452	97 783 170	128 873 478
Operating Ratio	79.48%	79.67%	83.89%	75.16%	76.56%
Freight Revenue	$411 289 602	x$111 110 178	.....	xx$304 031 959	z$415 142 137
Ton Miles Revenue Freight	39 870 244 000	x8 509 025 000	.....	xx24 838 724 000	z33 347 749 000
Revenue Per Ton Mile—Mills	10.32	x13.06	.....	xx12.24	z12.45
Averages Per Mile of Road:					
Railway Operating Revenues	$11 478	$9 812	$11 712	$11 889	$11 274
Railway Operating Expenses	9 122	7 817	9 826	8 936	8 632
Net Railway Operating Revenues	2 356	1 995	1 886	2 953	2 642
Freight Revenue	$8 568	x$7 660	.....	xx$8 808	z$8 468
Ton Miles Revenue Freight	830 595	x586 587	.....	xx719 588	z680 233

x—Freight revenue and tonnage for Texas and Louisiana Lines combined and include F. & A.—I. & V.—L. C. & N.—O. & N. W.—total mileage operated, 14506.

xx—Freight revenue and tonnage for "Other Southwestern Lines" include C. R. I. & G., Panhandle and Santa Fe and Texarkana & Fort Smith—total mileage operated, 34518.

z—Freight revenue and tonnage for "All Southwestern Lines" include F. & A.—I. & V.—L. C. & N.—O. & N. W.—total mileage operated, 49024.

[fol. 310] The exhibit also shows the freight revenue, ton mile revenue freight, and revenue per ton mile. The freight revenue and ton mileage is shown by systems of railroads; that is, the figures shown for the Atchison, Topeka & Santa Fe and the Gulf Coast Lines are shown as one system, and others as explained by the footnote at the bottom of the page.

On the second page I have shown these figures by the same groups of roads that were used in exhibit A-54, except that the freight revenue and freight tonnage are shown for the Texas and Louisiana lines combined. The figures for these lines also include some shorter lines of the Southern Pacific that are not included in the previous exhibits, but during the course of the year the ton miles and similar freight statistics are reported on O. and S. forms by systems of railroads and not in the same detail by individual roads that they are available after the close of the year.

The figures are all taken from reports of the carriers on file with the Interstate Commerce Commission and cover as many months in 1925 as I have been able to get. The revenues and expenses, of course, on file with the Commission earlier than the data as to ton miles and other traffic statistics, and I have covered the period for which all of the data shown in the exhibit was available (Tr. 4384-4385).

Note X at the bottom of the page refers to four short lines comprised in the Southern Pacific, Texas and Louisiana Lines (Tr. 4385).

The O. & N. W. is part of the Gulf Coast Lines. The Franklin & Abbeyville and the Iberia & Vermillion and Lake Charles & Northern are Southern Pacific Lines (Tr. 4385).

Exhibit A-56 is a collection of ten maps showing the lines of the twelve Western Trunk Lines as listed in my Exhibit A-54. The map of the Chicago & North Western Railway also shows the lines of the Chicago, St. Paul, Minneapolis & Omaha Railway, and the map of the Chicago, Burlington & Quincy includes the lines of the Q. O. & K. C. Railroad [fol. 311] (Tr. 4385-4386).

(Exhibit A-56 was received in evidence.)

[fol. 312] Mr. Roberts: Would you mind extending that Chicago & Eastern Illinois track down across the Missis-

sippi River to Chaffee. That might come into this case (Tr. 4386).

(No reply was made to this statement by either witness or counsel.)

Cross-examination:

The following is quoted verbatim from the transcript:

By Mr. Outlaw:

Q. Mr. Parsons, in connection with your testimony relating to exhibit I believe A-39, introduced at the former hearing, and with particular reference to the allocation by the railroads of revenue to states, I believe it was pointed out and you concurred in the fact, that that exhibit and the statements thereon were defective to the extent that the revenue apportioned to the states was apportiond by the railways roughly on a mileage prorate, whereas the revenue is actually divided on the basis of division percentages. Now, in your testimony this is important.

Mr. Towner: Just a minute, Mr. Outlaw. I don't think Mr. Parsons agreed to that at all. I think that was your conclusion.

By Mr. Outlaw:

Q. Well, I think Mr. Parsons did agree to it, and I will ask him now if he did not at that time concur to the extent that that condition was present, that there was an imperfection in the statement.

A. The discussion we had, as I remember it, relates to the apportionment by the individual railroads or systems of the revenues as between the different states through which the shipment might be hauled, and I think that we agreed at the time, for instance, that a shipment from Chicago, or the Missouri River to the Pacific Coast on the Santa Fe was divided up mile for mile as the shipment moved. I thing that is wrong, because I know our auditor in rendering settlement on freight interchange with the Santa Fe at Kansas City or St. Joseph divides the Santa Fe revenue on Albuquerque or Berlin. Whether that is a [fol. 313] mileage division or not, I do not know, but it

seems to be a very considerable group on the Pacific Coast, so that it is not a mileage as to each individual shipment.

Q. Well, that would be a division, I believe, between what might be termed the Santa Fe proper and the Santa Fe Coast lines?

A. Exactly.

Q. But that division itself is made on a mileage basis, is it not, Mr. Parsons?

A. I do not know.

Q. At the time you agreed that it was your understanding that it was so made by all of the systems?

A. In general I think that is true. I know we did do ours as between traffic in Illinois, Iowa, Minnesota and Missouri.

Q. Now, I believe this morning you made the further statement that you had checked the results in your exhibit with certain data prepared by Mr. Wettling and submitted in Ex Parte 87 proceedings.

A. Yes, sir.

Q. Well, it would be a fact, would it not, to the extent that there were imperfections in the figures which you used, the same imperfections would be present in the figures used by Mr. Wettling, as he used the same method?

A. They were the same figures (Tr. 4386-4387-4388).

The roads sent the figures to Mr. Wettling and he produced them individually, each statement as the railroad sent them, and filed them all in one book of some two hundred pages. This was done upon the Commission's request. Mr. Wettling's figures and my figures were assembled and computed in exactly the same manner—from the same figures. If there are any imperfections in his set of figures, they would also be present in mine, and if the one is perfect the other is perfect (Tr. 4388-4389).

The railroads which I have used in Exhibits A-51, A-52, A-53 and A-54 are not all of the Class 1 roads in the par-
[fol. 314] ticular territory. For example, the railroads shown as Western Trunk Lines at the left-hand bottom of page 5 of exhibit A-54 does not include all of the class 1 railroads in Western Trunk Line territory. At the moment I don't think of any other class 1 Southwestern carriers not included, but the list is drawn from the list of respondent carriers. The roads shown are all respondents, whether

class 1 carriers or not. I think, for example, that the Houston and Shreveport is a class 2 road (Tr. 4389-4390).

In the group entitled "Other southwestern lines," I have used in my computations the figures for the entire Atchison, Topeka & Santa Fe Railroad. The only part of that railroad in southwestern territory involved in these proceedings would be that part in the State of Oklahoma, approximately 1,200 miles of the entire mileage shown on the exhibit of 9,069.21 miles. The other approximately 8,000 miles are in territories other than southwestern territory. Of course, the Santa Fe has its lines leading from the Missouri River to the Oklahoma border, which would form a part of the route over which the southwestern traffic moves. That route would be through Iowa, Illinois, Kansas and Missouri. Directly the southwestern territory would be only that part of the mileage in the State of Oklahoma. The exhibit includes the operating results of the Atchison, Topeka & Santa Fe in California, Arizona, New Mexico and Colorado. To the same extent that a similar situation is present, the same thing would be true of the Chicago, Rock Island & Pacific and the Missouri Pacific which are included as southwestern lines, but which have extensive mileage in Kansas, Colorado and other Western Trunk Line-states (Tr. 4390-4391-4392).

I have used all of the mileage of the Chicago, Milwaukee & St. Paul, including that portion west of the Missouri River to the Pacific Coast, in making the computations for the Western Trunk Line group. The same is true of the Chicago & North Western and the Chicago, Burlington & Quincy. I don't know how much mileage the latter has west of the Missouri River. They have extensive mileage west of the river. I would not say the operating conditions [fol. 315] or the general conditions were at all similar in what has been termed in this case Western Trunk Line territory and in the States of Washington, Oregon, California, Nevada, Utah, Montana and the Dakotas (Tr. 4392-4393).

The Wabash Railroad has extensive mileage east of the territory involved in this case in what we call Central Freight Association territory, and the results of its operation are compared in the Western Trunk Line group. The Illinois Central has a considerable line south of the Ohio

and east of the Mississippi. All of its operations appear in the net results shown in my Western Trunk Line group (Tr. 4393-4394).

The following is quoted verbatim from the transcript of testimony:

The Witness: I would merely like to point out there that necessarily figures of this kind must include the operation of each separate railroad as a whole. I have no other means of doing it, and so far as I know there are no figures available that would segregate the earnings, particularly the expenses, as between different states through natural divisions that would fit in precisely with the scope in this case.

By Mr. Outlaw:

Q. That is true, Mr. Parsons, but I will ask you, taking the Atchison, Topeka & Santa Fe as an example, would you say that the result of the operation of the Atchison, Topeka & Santa Fe System, involving operations in California, Arizona, New Mexico, Colorado, Oklahoma, Kansas, Iowa, Missouri and Illinois, a system of nine thousand miles, with only about one-ninth of it in Oklahoma, that the net result of operations of that system would be representative of southwestern territory?

A. No, sir, not by itself, but there is testimony enough to point out that the Western Trunk Line group and the Southwestern group are about of equal mileage, that is, that there would be about the same proportion of the mileage of each group within either Southwestern or Western Trunk Line territory, and the distribution of the remainder [fol. 316] was about the same as to the territory where it lay.

The Santa Fe Line reaches the Pacific Coast, and the Milwaukee Lines reach the Pacific Coast on the north. I tried to put that data in in as much detail as possible so as to make it entirely clear just what the figures cover, where the railroads are, and how much of their mileage was within the territory here affected, and how much without that territory, and where that mileage outside of the territory was situated (Tr. 4394-4395).

The witness continued: In so far as relative expenses in these groups are concerned, I feel a good deal of confidence in the figures (Tr. 4395). The rate levels in Montana and Idaho are quite different from that in Illinois. As to whether or not the consolidation would probably correctly reflect the level of rates of even expense in either Illinois or Idaho, I think there is as much extraneous matter in one set of figures as in the other, and that the effect upon the relativity of the figures for the two groups is probably about the same in one case as in the other, so that the comparisons we are able to draw from these two sets of figures are helpful and informative, and I think fairly reliable. I think they come the closest to setting up something by which we can compare one set of figures with the other than the present science of railroad accounting has given us. We are not in this case fixing any divisions on traffic between Montana or California and southwestern territory (Tr. 4396).

I do not know of any reliable estimate at this time as to the increase in revenue which the Western Trunk Lines will receive as a result of their settlement in connection with the transcontinental division. We have made computations but we feel we must verify them by experience before we can accept them ourselves, and I have none of the figures with me. Most of the traffic involved in that settlement was transcontinental traffic. On the larger part of that traffic the Western Trunk Lines' divisions were in- [fol. 317] creased, but on a very substantial tonnage they were reduced. I refer to the North Coast lumber. Our revenues will be increased as a result of the settlement, but how much I cannot even furnish an estimate. The increase would, of course, affect our net revenue (Tr. 4396-4397-4398). The Western Trunk Lines have represented to the Commission in Ex Parte 87 that the rate level in Western Trunk Line territory is too low. This might have something to do with the relatively poor showing in Western Trunk Line territory (Tr. 4398).

In Exhibit A-54, I have included in the computations for the Southwestern lines the Missouri Pacific Railroad from St. Louis to Kansas City and the lines of that company in Nebraska, Kansas and Colorado. I do not know whether or not the line between St. Louis and Kansas City is the line

of heaviest traffic density on that system. I have always understood that it was a line of high traffic density (Tr. 4399).

I selected the years 1922, 1923 and 1924 because those were the last three years prior to the hearing in this case. There were some adverse crop conditions in 1924. However, I have not sought to make a comparison of that year with the general average in the Western Trunk line states. I have figures for thirty-six consecutive months and general figures for forty-four consecutive months, and they portray the conditions as they existed during that period of time. I think that generally a three-year period affords a very good test for current conditions. Looking only to the year 1924, whatever unusual conditions may have existed then, that necessarily is one of the factors that will have to be taken into consideration in judging the significance of these figures (Tr. 4399-4400-4401).

By Mr. Larimore:

Q. Well, assuming that you have taken a three year period and that one year represents unusual conditions in Western Trunk Line territory, and assuming further in computations having to do with the Western lines or Southwestern lines, rather, you have included a great mileage of [fol. 318] the Rock Island, the Santa Fe, Missouri Pacific, and other lines, having great mileage in Western Trunk Line territory. You think, then, the situation is presented on which the Commission can intelligently act?

A. I think with the three year figures, having the light of all the information that may come out as to the conditions during those years, does afford them something that will be useful and on which they can base an intelligent decision (Tr. 4401).

Referring to page 5 of exhibit A-54, none of the Western Trunk Lines shown have any mileage in Southwesten territory, but the lines shown under Southwestern lines, such as the Santa Fe, Rock Island and Missouri Pacific, have mileage in Western Trunk Line territory, and they are in the Southwest and other states. The Cotton Belt, however, has some mileage in Illinois (Tr. 4401-4402).

The entire mileage of the Santa Fe is included in the exhibit although only the mileage in the State of Oklahoma

is within Southwest territory as involved in this case. The mileage of the Santa Fe outside of Oklahoma is shown in "mileage in other states." The mileage of the Rock Island outside of the southwestern states is considerably greater than it is in the states of Arkansas, Louisiana and Oklahoma. How much greater, I don't know. The Missouri Pacific has more mileage in the Southwest (4403). I don't know whether or not I would have materially different figures if those three lines were included in the computations for both territories. It would make an increase in the Western Trunk Line mileage, but I do not know what change it would make in the average result. It would not necessarily make much change in the average results, unless the results of those lines differed materially from the average for the roads I have indicated on the exhibit as Western Trunk Lines. I could only determine definitely what change would be made by setting up the figures (Tr. 4402-4403-4404).

[fol. 319] I have said that I thought the showing on the exhibits was fair because practically the same mileage was shown by other states between Western Trunk Lines and Southwestern lines as grouped in the exhibits. If the full mileage of the Santa Fe, Rock Island and Missouri Pacific systems were included in the mileage for the Western Trunk Lines, that would practically double their mileage shown for "other states" (Tr. 4404).

Redirect examination:

Two things contribute to the low level of rates in the Western Trunk Line territory: one is the level of the rate and the other is the measure of the division of joint rates that the Western Trunk Lines receive. I said that there was a low level of rates in Western Trunk Line territory, and the causes of that situation, generally speaking, are: the affect of state made rates in such states as Missouri and Iowa, and the other is the sharp competition as between the railroads themselves and as between the railroads and other forms of transportation, between Chicago and the Missouri River and Chicago and the Twin Cities. The competition between Chicago and the Missouri River has been that between the different railroads. The rates to the

Twin Cities still reflect the influence of water competition that once was a very potent factor in fixing the level of rates between Chicago and the Twin Cities. Market competition is also very keen and tends to keep down the level of the rates. The carriers have not yet succeeded in remedying these causes. Efforts have been made and are still being made in that direction but to the present time we have been unsuccessful (Tr. 4405-4406).

[fol. 320] Re-cross examination:

We have made many individual efforts to resist reductions that have been forced upon us by the state authorities in Iowa and we now have pending with the Iowa Board of Railroad Commissioners an application for a new schedule of class rates in that state. The Western Trunk Lines have considered several times the proposition of raising Iowa intrastate rates up to the level of the interstate rates. Our appeal has always been made to the Iowa State Commission, and we have never gone to the Interstate Commerce Commission. I am not familiar with the present condition of the Missouri interstate rates (Tr. 4407).

The intrastate rates in Missouri and Iowa both are practically on a level with the interstate rates as regards the rates between the rivers. I do not know about the level of the intrastate rates in Missouri to the interior of the state, but in Iowa the rates on shorter hauls are much below the level of the interstate rates (Tr. 4408).

By Mr. Muckley:

Q. Do you think that the Western Trunk Lines have been subjected to any more adverse state regulation than the Southwestern lines have,—Louisiana and Texas, for instance?

A. I don't know.

Q. Oklahoma and Arkansas?

A. I don't know.

Mr. Towner: Could I ask you whether or not you followed Mr. Larimore's advice to Mr. Parsons?

Mr. Muckley: Yes, sir, we have filed the Shreveport case, at one time.

(There followed a discussion of the record.)

[fol. 321] I do not know whether competition between railroads is more severe in Western Trunk Line territory than it is in the Southwest. I have no doubt that the same conditions, state regulation and competition, affect the level of the rates in the Southwest as in Western Trunk Line territory. I cannot compare the two territories in that respect (Tr. 4409).

The Iowa laws were amended two years ago, giving the Iowa Board authority, on application of the carriers, to grant relief from the long and short haul rule, but with very few exceptions the roads declined to avail themselves of that statute, feeling that the rates were already too low and that they could not afford to extend direct line rates over long routes.

(The witness did not know about the short haul clause statute in Missouri, but thought that a provision with reference thereto was included in the Missouri statute.) (Tr. 4410.)

Thereupon Attorney Towner made the following statement:

At the last hearing I undertook to get up a list showing the supplements to the list of division sheets that was offered in the record as an exhibit. I did that and I circulated copies of the list of supplements to everybody that appeared of record at the other hearing, with the statement that at this hearing I would offer it in evidence. I forgot it this morning but I would like to do it now. I take it there will not be any necessity of putting a witness on for it, so I will offer it as respondent's exhibit A-57.

(Exhibit A-57 was received in evidence.)

[fol. 322] J. A. Behrle was thereupon recalled as a witness and testified as follows:

It has been suggested that in connection with my testimony which appears on page 4190, volume 1 of the record, hearing of October 14, 1925, I did not make myself entirely clear with reference to the application of the divisions in Illinois Freight Committee division sheet No. 5. The ques-

tion was asked of me by Mr. Towner as to whether or not this division sheet has application south and east of the line of the Frisco from St. Louis to Springfield, and the answer as it appears in the record is St. Louis-Springfield. It should be understood that these divisions apply to the territory south and east of that line, and that on and north of that line the divisions are as shown in the Illinois Freight Committee sheet No. 3 (Tr. 4411-4412).

It has also been suggested that the record might be more clear with reference to the divisions between the Southwest and the territory north of Milwaukee and west of the Mississippi River as outlined in several of the maps which I have presented.

It should be understood in this connection that my general statement to the effect that the lines south were accorded Milwaukee earnings on this traffic, they should apply as to exhibits A-12, A-21, A-23 and A-24.

The question was asked of me at the last hearing with reference to the origin of the present divisions on petroleum from Oklahoma points, and in order that the record may be entirely clear I wish to make this statement:

[fol. 323] At a meeting of executive officers on October 5, 1915, in conjunction with the consideration of rates on petroleum oil and products from Kansas and Oklahoma points to points on and east of the Missouri River, which has been established by the Interstate Commerce Commission in the Mid-Continent Cases, I. C. C. Docket No. 6829, 36 I. C. C. 109, the question of the division of these through rates was referred to the chairman with the understanding that an announcement of divisions would be made simultaneously with the publication of the rates (Tr. 4412-4413).

In line with these instructions the Chairman of the Western Trunk Line Committee on April 26, 1916 submitted to the executive officers a division sheet to apply in connection with Western Trunk Line tariff No. 90, which contained the rates published in conformity with the Interstate Commerce Commission's decision in the Mid-Continent Case, I. C. C. Docket No. 6629.

At a meeting of the executive officers of Western Trunk Lines on June 20, 1916, this subject was again considered, and inasmuch as not all of the lines were represented it was

understood that the chairman would correspond with the absentees and in the event of their approval of his division sheet make announcement of the concurrence of all roads.

On July 24, 1916, the executive officers of Western Trunk Lines met again and decided that this question of division should be left with the chairman for a conference with the executive officers of the Kansas City Southern Railway, the M. K. & T. Railway and the St. Louis-San Francisco Rail-
[fol. 324] (Tr. 4413).

At a meeting of executive officers of Western Trunk Lines on September 29, 1916, the committee, consisting of the St. Louis-San Francisco, M. K. & T. and Kansas City Southern, and the chairman, to which the objections recorded against the figures submitted by the chairman had been referred, reported that with the transfer of Tulsa, West Tulsa and Sand Springs, Oklahoma, from group 1 to group 2, the division submitted by the chairman on April 26, 1916 would be acceptable.

It was understood that these divisions would take effect October 1, 1916.

At a meeting of executive officers held on November 16th and 17th, 1918, the subject was finally referred to the chairman with authority to establish these divisions and make them effective on October 1, 1916, and this action was reaffirmed at another meeting of executive officers held on March 15th and 16th, 1917.

There does not appear in the record an historical account of Illinois Freight Association division sheet No. 5, which carries the divisions via East St. Louis on traffic to and from Arkansas points. These divisions as shown in division sheet No. 5 became effective September 1, 1923. The divisions between the Illinois Rate Committee territory and Missouri points are now in dispute somewhat, although originally they were carried in the same division sheet with the divisions on Arkansas traffic (Tr. 4414).

Illinois Freight Association division sheet No. 5 represents the proportions which were formerly carried in E. B.
[fol. 325] Boyd's tariff No. 508 series, the current issue of which is 508-G, I. C. C. A-1438. This tariff series runs back to original tariff No. 508, Illinois Freight Committee I. C. C. No. 7. issued by W. H. Hossmer, Agent, effective July 15, 1909. The rates shown on this tariff were in effect

for some years previous in joint proportional freight tariff No. 1, Chicago-St. Louis Traffic Association I. C. C. No. 4, but of which, unfortuniately, we are not in a position at this time to produce a copy.

Tariff No. 506 contained proportional rates between Chicago, Peoria, Milwaukee and points taking the same rates and East St. Louis and the Ohio River, applicable on traffic to or from points in Arkansas and Missouri to or from which no through rates were published.

In addition to numerous commodity rates, this tariff contained a line of proportional class rates between Chicago, Peoria, Bloomington, Milwaukee and East St. Louis and the Ohio River, governed by the Western Classification. At that time the local class rates between these points were governed by the Illinois Classification.

The class and commodity rates in tariff No. 506 and also in proportional tariff No. 1 were also the proportions to lines north of the Ohio River and East St. Louis on southern Missouri and Arkansas traffic (Tr. 4415).

In other words, in addition to being a tariff, this sheet was also a division sheet.

The division sheets in effect between Illinois Rate Committee and Western Trunk Line territory on the one hand, and the Southwest on the other hand, covering merchandise percentages and divisions on miscellaneous commodities not specifically covered by individual division sheets have been in effect for a number of years (Tr. 4416).

[fol. 326] The Missouri Pacific division sheet No. 786-A, applying between St. Louis, Chicago, Omaha, Davenport, Fort Smith, Van Buren and Greenwood, Arkansas, via Kansas City, was issued to take effect March 1, 1906, and cancelled division sheet No. 786.

The St. Louis-San Francisco division sheet No. 1-C applying between the same territories cancelled division sheets Nos. 1-B and 21-E. These division sheets became effective May 1, 1904.

St. Louis-San Francisco division sheet 1450, which contained divisions between points on the Cotton Belt in Arkansas, Louisiana, and points north of East St. Louis, and the Ohio River and Kansas City became effective August 1st, 1906, and cancelled the percentage sheet No. 1300 (Tr. 4416).

St. Louis-Southwestern percentage sheet No. 1500 cancelled percentage sheets Nos. 1080 and 1083, and contained divisions between Shreveport, Monroe, Alexandria, Boyce, Minden and Sibley, Louisiana, via East St. Louis, the Ohio River and Kansas City. This division sheet No. 1500 was issued to become effective April 1st, 1910 (Tr. 4416-4417).

Kansas City Southern percentage sheet, Port Arthur Route, 158-B applying between Shreveport, Alexandria, Pineville, Monroe, West Monroe, and points north of East St. Louis, canceled percentage sheets Nos. 158-A and 115-A and became effective September 18, 1905.

Kansas City Southern Port Arthur Route division sheet 87-A applying between Chicago and Little Rock, Pine Bluff and Hot Springs via Kansas City was issued to become effective September 1, 1902.

[fol. 327] I wish to make this comment with reference to the division of revenue on traffic between Southwestern states and points east of the Indiana-Illinois State line.

In dividing through rates between the Southwest and points east of the Indiana-Illinois state line, via East St. Louis, the revenue is usually divided north and south of East St. Louis and the Ohio River, and the lines east receive their earnings by subdividing the proportions north with their eastern connections. In the event that there are no through rates in effect and the rates do not break on either East St Louis or the Ohio River, but are made over Chicago or other interior Illinois junctions, the proportions south are subdivided with the southwestern lines on the same basis of divisions as is applicable on local business between the southwestern points and the rate breaking points (Tr. 4417-18).

On traffic between the Southwest and points east of the Indiana-Illinois State line via Kansas City the divisions generally break over the Mississippi River, that is, the lines south of Kansas City receive their percentage proportion of the rate or division west of the Mississippi River and therefore on this traffic generally the Southwestern and Western Trunk Lines are involved in the question of divisions insofar as it affects this subdivision.

In some instances such as an oil moving between the Southwest and Central Freigth Association territory, the rates frequently break on Chicago or other interior Illinois

junctions, and in such cases the proportion west of Chicago or these Illinois junctions is subdivided via Kansas City (Tr. 4418).

[fol. 328] On lumber from the Southwest of Central Freight Association territory via Kansas City the rates were originally divided by allowing the lines to Kansas City the same proportion on lumber moving from the Southwest to C. F. A. territory as to Cairo. The eastern lines receive the same earnings as on lumber moving via East St. Louis and the lines east of Kansas City and west of the C. F. A. lines receive the balance (Tr. 4418).

This method of division, worked out on an average arrangement, is in effect today (Tr. 4418).

It has been suggested that exhibit A-32 which was presented at the former hearing and which showed the divisions of revenue on lumber from the Southwest to Western Trunk Line territory via Kansas City was rather incomplete and I have, therefore, prepared another exhibit showing this information more in detail.

There are shown from various points of origin in the Southwest various points of destination north of Kansas City, through rates, the division in cents per hundred pounds both north and south of Kansas City, the mileage north and south, the earnings in cents per ton, and in mills per ton mile (Tr. 4419).

(Exhibit A-58 was received in evidence.)

[fol. 329] The heading of the statement second from the last to the right should read "Earnings in dollars and cents per ton car" rather than "earnings in dollars and cents per ton mile."

The points of origin which I have shown are representative points in the southern lumber originating groups. The examples of movements and divisions are representative and typical of the rates and divisions and the movement of the lumber traffic generally. The mileages used are the short line tariff mileages (Tr. 4420).

At the last session I presented an outline of the more important division sheets applying on traffic between Western Trunk and Southwestern territories. In addition to these general division sheets to which I made reference there

are numerous special divisions sheets covering divisions on special commodities. Obviously, it would be impossible to set out all these divisions in exhibit form, but for ready reference and as a matter of information we have made an extract of the contents of some of the more important division sheets and embodied this information in the exhibit which has been numbered A-59.

This division sheet is described as a statement showing the division of revenues on commodities in carloads moving between Southwestern Freight Bureau territory and Western Trunk Line territory via Kansas City and East St. Louis (Tr. 4420-4421).

Exhibit A-59 includes or is composed of commodities which do not move under the general basis of divisions to which I testified at the last hearing. In other words, these commodities move under special divisions. They do not necessarily move under special divisions in all in- [fol. 330] stances, but there are special divisions applying on these commodities, which divisions are covered by the division sheets referred to in exhibit A-59 (Tr. 4421).

I want to make this reservation, of course, that this exhibit does not contain all of the detail of these division sheets; in other words, they are not reproduced as a whole, but we have selected the more important producing and consuming points as illustrations of this situation (Tr. 4421-4422).

The commodities which I have included in exhibit A-59 are commodities that actually move. There are a lot of divisions on other commodities as to which I could not find any movement. There are a great many divisions applying on the commodities on which there is no movement and many instances where point to point divisions apply on specific commodities. It is not practicable to show all those divisions in exhibit form. The only way that they can be covered is by reference to the division sheets which have been put into the record. The origins and destinations shown on exhibit A-59 are I think, typical and representative of the commodities shown. We took as a guide our investigation of the movement as disclosed by the analysis of the movement of traffic during the month of June, 1924, and such other general observations as we were able to make.

No weights are shown on the exhibit, since the car mile earnings are not shown. Not all of the movements of commodities were taken from the actual movements in June. We used those movements simply as a guide, but did not confine ourselves to them (Tr. 4422-4423).

[fol. 331] Exhibit A-60 is a statement showing the tonnage, the mileage, earnings, and division of revenue on carload freight moving between points in Missouri, Arkansas, Louisiana, Oklahoma, Texas and points on the Chicago & Alton, Chicago & Eastern Illinois, Chicago Great Western, Chicago, Milwaukee & St. Paul Railway, Chicago & North Western Railway, Chicago, St. Paul, Minneapolis & Omaha Railway, Illinois Central Railroad, Minneapolis & St. Louis Railway, and Wabash Railway in Illinois, Missouri, Iowa, Wisconsin, and Minnesota, via Kansas City, East St. Louis, Cairo, Gale, and Thebes, during the month of June, 1924. This is an analysis of the statement introduced by Mr. Balch. It applies only as to traffic having origin or destination on the lines to which I have heretofore referred. It is not entirely a summary of Mr. Balch's statement, since in that statement there is also company line business which is not taken into account in my statement (Tr. 4423-4424).

(Exhibit A-60 was received in evidence.)

[fol. 332] On page 4 to 18 inclusive we have shown a separation of this traffic via Kansas City, East St. Louis, Cairo, Gale and Thebes as between the States of Missouri, Arkansas, Louisiana, Oklahoma and Texas, and divisional groups north of the three junctions named.

Page 1 is a recapitulation of the information shown on pages 4 to 9 inclusive. Page 2 is a recapitulation of the information shown on pages 10 to 15 inclusive. Page 3 is a recapitulation of the data shown on pages 16 to 18 inclusive of this exhibit. The average haul per ton mile shown is the average weighted haul (Tr. 4425).

Northeast Texas, as we have explained in these exhibits, is that part of the State of Texas lying on, north and east of the Texas & Pacific Railway from the Louisiana State line via Longview to Big Sandy, the St. Louis-Southwestern of Texas from Big Sandy via Tyler, Athens and Corsicana to Hillsboro, the T. & B V. Railway from Hillsboro to Cleburne, the G. C. & S. F. Railway from Cleburne to Weather-

ford, the Texas & Pacific Railway from Weatherford to Fort Worth, and the C. R. I. & G. Railway from Fort Worth to Bowie, the Fort Worth & Denver City from Bowie via Wichita Falls and Vernon to Acme, and the Q. A. & P. Railroad from Acme to the Red River. The statement includes the statistics as to Texas common points territory but no traffic to and from Texas differential territory is included in this exhibit (Tr. 4425-4426).

The Texas differential traffic is shown in Mr. Balch's exhibits. I don't know whether it is described or not but all the data is in the exhibit (Tr. 4427).

[fol. 333] In this exhibit A-60 I have taken the details that were shown in Mr. Balch's exhibits and reworked them to show weighted averages and other information. I would say that the period covered by Mr. Balch's exhibits and the traffic and other statistics shown therein are typical of the general situation. I might say that before we started on this task, which is one of considerable magnitude, we gave particular attention to the proposition of obtaining a representative movement and we decided that the movement for the month of June would be fairly representative. After the statement was prepared I made a check of the movement via the Chicago & Alton Railroad and I found that as a whole it was typical of the general situation.

It may be that some few commodities are omitted, but as a general proposition the result would not be changed materially in my opinion if a longer period were selected. I believe that even if certain commodities were not shown because they did not happen to move in that particular month, the rates and divisions which apply on those commodities would be typified by the facts and figures contained in those statements (Tr. 4427-4428).

We confine ourselves to the traffic having origin or destination on the particular lines that are specified in the title page of exhibit A-60. In other words, we did not go beyond that to take in the traffic having origin or destination beyond the rails of the carriers listed. Mr. Balch's statement shows all of that information. It shows the business going beyond the Western Trunk Line territory as well as the traffic having origin or destination on the specific lines that are shown on exhibit A-60. With respect to that

particular character of traffic and rates and divisions ap-
[fol. 334] plying thereon, the figures of Mr. Balch's exhibit cover the subject (Tr. 4429).

Cross-examination:

Exhibit A-59 shows typical illustrations of divisions which are not general divisions. That is, they do not come within the scope of the general division sheet such as the Texas division sheet No. 40, Illinois Freight Committee division sheets 3 or 5. These divisions are specific divisions applying on these particular commodities and between the points shown.

The first Texas point of origin or destination appears on page 3 of the exhibit—Denison, Texas. That point is in the extreme north of Texas, but I also took more distant points. Denison is 411 miles to Kansas City, Fort Worth 512 miles and Navasota 668 miles. Fort Worth is intermediate between Denison and Navasota in point of mileage (Tr. 4430).

The points Longview, Karens, Waco, and Beaumont, Texas might be said to be in eastern Texas. There is considerable variation in the mileage which I have shown, however. The towns Denison, Hamlin, Paris and Sherman all with the exception of Hamlin are in the northeast section of the state, but there is a spread of 224 miles between Denison and Hamlin.

On sheet 5 we have shown Beaumont 766 miles and Houston 791 miles to Kansas City. The cotton seed was hauled to Sioux City (Tr. 4431).

This exhibit A-60 was predicated on Mr. Balch's exhibit and contains the information shown in his exhibit. We have shown herein the data with reference to the movements which are described in Mr. Balch's exhibit as applying via Kansas City, East St. Louis, Cairo, Gale and Thebes (Tr. 4432).

[fol. 335] No traffic is included in the exhibit which originates or terminates on lines of the Santa Fe, Rock Island or Burlington east of the Missouri River. The mileage of the Santa Fe between Kansas City and Chicago is a short line mileage, or approximately 452 miles. I do not know the mileage of the Burlington between Kansas City and Chicago.

By Mr. Outlaw:

Q. Now, those mileages which you have referred to, Mr. Behrle, are all shorter than the mileage of the Chicago Great Western between Chicago and Kansas City. Do you know what that is, relatively?

Mr. Towner: Mr. Parsons suggests it is 595 miles.

By Mr. Outlaw:

Q. Counsel for respondents states that mileage is 595 miles. Do you know what the mileage of the Chicago, Milwaukee & St. Paul is between Chicago and Kansas City?

A. I imagine somewhere between 500 and 525 miles (Tr. 4433-4434).

The use of mileages of these other lines like the Chicago Great Western, Chicago, Milwaukee & St. Paul between Chicago and Kansas City and the elimination of lines like the Burlington, the Santa Fe and Rock Island would not make much difference in the data shown except in the case of the Santa Fe, for the reason that the mileage of the Chicago & Alton Railroad which next to the Santa Fe, is the short line, is included. The mileage of the Wabash, 512 miles, is not so long. It might be that if the Santa Fe had been included in the computation, the average haul in Western Trunk Line territory would be somewhat reduced. But with the inclusion of the others, I do not know how it would work out. With the Santa Fe alone excluded, but taking into account the others, I do not know how it would work out (Tr. 4435-4436).

[fol. 336] The mileage of the Burlington from St. Louis to Chicago is about 325 miles and the mileage of the Alton is 279 miles. I have not included the Burlington in my figures to St. Louis. The effect of the inclusion of the Santa Fe from Kansas City to Chicago on business going north of Chicago to Milwaukee, for example, would be to include a longer line than that of the Milwaukee Railroad from Kansas City to Milwaukee (Tr. 4436).

In exhibit A-60 we divided the state of Texas, setting off Northeast Texas because Texas is such a large state we thought we might properly make some separation of it. We did not make a similar separation with reference to

Texas differential territory because the southwestern lines receive the arbitraries that apply beyond the Texas common point line. The picture is complete as far as it goes and it comprises the major part of the territory.

We did not split up the state of Illinois because there was not as much to split up in Illinois as there is in Texas. We did not split in accordance with how much was left after we split it (Tr. 4437).

I did not testify as to how the divisions on lumber were made from the southwest to northeast of Chicago, moving through the St. Louis gateway.

What I said about the lumber situation was that the basis for division between the Southwest and C. F. A. territory was that the lines up to the Missouri River got the proportions that were given the lines up to Cairo and the lines east of Chicago were given the same earnings that they would receive on lumber from the Southwest moving via East St. Louis; lines between Chicago and Kansas City got the balance.

[fol. 337] The lumber that moves through East St. Louis through C. F. A. territory is divided by the Ohio River and East St. Louis. The lines east of East St. Louis receive their proportion out of the proportion north of Thebes or Cairo. I do not have the figures (Tr. 4438).

The basis of the proportional rate from East St. Louis is:

The rates originally broke over the Ohio River and the lines from the Ohio River to East St. Louis were given an arbitrary, and the lines east got the balance (Tr. 4439).

On oil from Oklahoma to the Indiana state line:

As a general proposition the rates were constructed on various combinations and were generally divided as made except that our southern friends as a general proposition feel that they are entitled to their proportional rates up to East St. Louis. That is a point of dispute between the southwestern and eastern lines.

There is some question as to what junction the rates on oil from Oklahoma to northeast of the Illinois-Indiana state line break over at present. The through rates have been recently established between Oklahoma and Indiana and the divisions of those through rates is in dispute now.

As to the Danville, Illinois district, the lines northeast of East St. Louis are asking for a division of rates to the base point, but the southwestern lines contend for their propor-

tional rates up to East St. Louis, leaving the balance all to be subdivided with the eastern lines.

[fol. 338] You can not disregard the subdivision between the eastern lines, because there are two propositions there: One is to divide the rate as it breaks and the other is to allow the southwestern lines their proportional rate up to East St. Louis and subdivide the balance with the eastern lines. Both bases obtain at the present (Tr. 4439-4440).

Lumber is a fairly heavy moving commodity. The Western Trunk Lines participate in the allowances made to the tap lines to the extent that the divisions north were predicated on the allowances that the southern lines had to make to the tap lines. They were predicated on that; that was taken into consideration (Tr. 4441).

The following is quoted verbatim from the transcript of the testimony:

Q. Now, are we to understand from your testimony that you think the mileage prorate would be proper, dividing the rates on traffic interchanging between Western Trunk Lines and the Southwest?

A. I have not made any expression on that point at all.

Q. You do not want to make any expression on that?

A. No, sir.

Q. You do not want to say whether that is a proper basis of division?

A. No, sir (Tr. 4441-4442).

The witness, continuing:

Exhibit A-60 includes all carload shipments during the month of June 1924 in both directions having destination or origin on the lines shown on the title page.

The difference in the average weighted haul of all such commodities between East St. Louis and northeast Texas, and between East St. Louis and all common point territory south of East St. Louis is 51 miles (Tr. 4443).

[fol. 339] E. J. SCHMIDT was thereupon recalled as a witness and testified as follows:

Direct examination:

I testified at the former hearing in this case, but have some additional data with which I wish to supplement my former testimony.

Exhibit A-61 is a statement showing the division of revenue on lumber north of Thebes from various producing points in the Southwest to representative points in Illinois and Wisconsin via Thebes, Illinois. It shows the through rate, divisions and cents per hundred pounds, mileage north and south of Thebes, earnings per ton, per ton mile, per car and per car mile. The figures are self explanatory and I do not believe that there is any comment necessary. I would say the examples shown in this exhibit are typical of the same situation (Tr. 4443-4444).

(Exhibit A-61 was received in evidence.)

[fol. 340] Exhibit A-62 supplements A-36. In exhibit A-36 I merely indicated at the previous session the rates and divisions in cents per hundred pounds from representative southwestern producing points. This exhibit elaborates upon A-36, showing the through rate divisions in cents per hundred pounds, mileage north and south of East St. Louis, earnings, in cents per ton, per ton mile, per car and per car mile. The examples shown on exhibit A-62 I think, would be typical of the entire situation (Tr. 4445).

(Exhibit A-62 was received in evidence.)

[fol. 341] I put in the basis for the lumber rates and divisions at the former hearing (Tr. 4445-4446).

ELMER A. SOLLITT was thereupon called as a witness and testified as follows:

Direct examination:

My name is Elmer A. Sollitt. I live at St. Louis, Missouri, and I am an official of the Wabash Railway Company. I am General Superintendent of the Western Distric, which comprises the line from Decatur west via Springfield and Hannibal to St. Louis. The lines from St. Louis including the St. Louis terminal, west to Moberly; the line from Moberly northward to Des Moines; and the line from Brunswick to Omaha.

Q. You are here to testify on behalf of the Wabash?

A. Yes, sir (Tr. 4447).

I commenced work for the Wabash Railway Company as a messenger boy about thirty-five years ago, then to

fireman, engineer, road foreman, trainmaster, assistant superintendent, acting superintendent, superintendent, and general superintendent. I have occupied the last mentioned position since September 15, 1923 (Tr 4448).

I have six exhibits which were prepared under my supervision and pursuant to my instruction. To the best of my knowledge and belief they are correct (Tr. 4448).

An exhibit consisting of six pages numbered 1 to 5½ was thereupon offered in evidence as exhibit A-63 (Tr. 4449).

(Exhibit A-63 was received in evidence and was thereafter described in detail by the witness.)

[fol. 342] The first page of this exhibit was prepared for the purpose of showing density of traffic, between Council Bluffs and St. Louis, Kansas City and St. Louis, for the years 1916 to 1924 inclusive. This exhibit shows for each of the years mentioned the number of trains operated, number of loads handled, number of empty cars handled, total number of cars handled, average number of cars handled per train, percentage of increase in each year over the year 1916 and the net tons handled per train.

It will be noted that in 1924 the average cars handled per train shows an increase of 18.23 per cent over the number handled per train in 1916. The reason the comparison begins with the year 1916 is that the Wabash Railway Company was organized and began operations on November 1, 1915, and therefore the figures for the year 1916 were the first available for this company.

Prior to November 1, 1915, the lines now operated by the Wabash Railway Company were operated by receivers appointed in 1911, and prior to that time they were operated by the Wabash Railroad Company. (Tr. 4449-4450).

Page 2 of this exhibit shows the same information as to traffic density between St. Louis and Chicago for the same years and in the same form that the preceding exhibit shows it for the lines between Council Bluffs, St. Louis and Kansas City and St. Louis. Here again it will be noted that the average number of cars handled per train in 1924 was 9.73 per cent in excess of the number of cars handled per train in 1916. The figures for the years 1916 and 1917, and perhaps a part of 1918, are high, due to abnormal conditions resulting from the great war (Tr. 4450).

[fol. 343] Page 3 of Exhibit A-63 is a comparison of the same data shown on the preceding exhibits, except that it is limited to the month of October in each of the years from 1908 to 1924 inclusive, and covers the line from Council Bluffs to St. Louis and Kansas City to St. Louis. Page 4 is a companion exhibit showing the same information for the lines between St. Louis and Chicago. I call attention to the gradual increase in average number of cars handled per train during this period.

The month of October was selected because it is one of the heaviest months in the year and operating conditions during that month may, we believe, represent a fair average for the twelve months of the year.

In connection with the foregoing exhibits I wish to say that the headings do not exactly describe the contents of the exhibit, because by "traffic density" is usually meant the net tons handled per mile of road, which, of course, these exhibits do not show (Tr. 4450-4451).

Pages 5 and 5½ of exhibit A-63 consist of condensed profiles showing in a graphic manner the grades of the Wabash Line between Omaha and St. Louis, Kansas City and St. Louis, and St. Louis and Chicago.

In traversing the distance from Omaha to St. Louis, a distance of 413 miles, it is necessary for a train to be elevated an aggregate distance of 2,868 feet. In the reverse direction the total elevation or lift is 3,401 feet. From Kansas City to St. Louis, a distance of 278 miles, the aggregate elevation is 971 feet, and in the reverse direc-
[fol. 344] tion, 1,292 feet. From St. Louis to Chicago, a distance of 288 miles, the aggregate elevation or lift is 1,142 feet, and in the reverse direction, 957 feet. In addition to the grades shown, the line from Omaha to St. Louis has many curves, many of which are exceedingly sharp. The Wabash also has a line from Des Moines to Moberly, and a line from Moberly to Hannibal. These conditions would also fairly represent the grade of the Des Moines Moberly line, although I have not separately depicted them (Tr. 4451-4452).

I have had made an investigation for the purpose of determining the number of trains necessary to handle 100,000 gross tons of freight between Kansas City and St. Louis

and between Council Bluffs and St. Louis in the year 1924 as compared with 1916, with the following results:

Between Council Bluffs and St. Louis it is found that in 1916 it required 356 trains to move 100,000 gross tons of freight requiring expedited service, commonly referred to as time freight. During 1924 it required 315 trains to move the same tonnage of the same class of freight. In 1916 it required 301 trains to move the same tonnage of dead freight, and in 1924, 267 trains. Between Kansas City and St. Louis, in 1916, it required 151 trains to move 100,000 gross tons of time freight, and in 1924, 119 trains. In 1916 it required 133 trains to move the same tonnage of dead freight, and in 1924, 100 trains (Tr. 4452-4453).

The Wabash has expended on its line, over which this southwestern traffic moves, for improvements chargeable to capital account, the sum of $5,426,807 for the period beginning November 1, 1915, and ending December 31, 1924. [fol. 345] This is an average of approximately $600,000 per annum during each of the nine years included in the period (Tr. 4453).

The Wabash has three bridges to maintain which are located at Hannibal, over the Mississippi River, at Valley City over the Illinois River, and at St. Charles over the Missouri River.

In additional to these bridges on the line of the Wabash we also make use of the Chicago, Burlington & Quincy Railroad Company's bridge over the Missouri River at Kansas City under an operating agreement, which obligates us to pay the Burlington approximately $40,000 per year. The Burlington, however, is demanding that this payment be materially increased. The bridge used by the Wabash at Hannibal over the Mississippi River is 1,556 feet in length, 1,411 tons in weight, and its value new in 1914 was appraised at $374,800, and it is estimated that to replace in kind in 1925 would cost $625,900.

The bridge over the Illinois River at Valley City, Illinois, is 3,524 feet in length, 759 tons in weight, appraised value new in 1914 was $159,500, and to replace in kind in 1925 would cost $285,600. The bridge over the Missouri River at St. Charles is 6,519 feet in length, 4,357 tons in weight, appraised value new in 1914, $1,303,100, and the cost to replace in kind in 1925, $2,239,200.

The figures I have just given might indicate excessive length of bridge for the steel weight. This is explained by the fact that the bridges at Valley City and St. Charles both have very long approaches. The approaches to the St. Charles Bridge have timber docks with concrete post [fol. 346] tower supports. The total length of the approaches to the Valley City Bridge is 1,774 feet, and the St. Charles Bridge 4,342 feet (Tr. 4454-4455).

In 1902 the Wabash Railway Company had in use 490 locomotives, representing a tractive effort of 7,325,010 pounds, or an average of 14,949 pounds per locomotive, 91 of these locomotives being used exclusively in switching service. In 1915 it had 589 locomotives, representing a tractive effort of 17,788,289 pounds, or an average of 30,201 pounds per locomotive. In 1924 the Wabash Railway Company had 645 locomotives, representing a tractive effort of 23,382,542 pounds, or an average of 36,252 pounds per locomotive, 144 of which engines were engaged exclusively in switching service. In addition, the Wabash has purchased fifty additional freight locomotives of heavy capacity, which increased the figures as shown for 1924 to be: Total engines, 687; total tractive effort, 26,554,163 pounds; average per locomotive, 38,652 pounds (Tr. 4455).

The Wabash is spending a lot of money at Kansas City in building a new freight yard. We are constructing a new yard in what is known as North Kansas City, at an expenditure this year of about $350,000, which includes a few tracks, I will say that, because I am general superintendent, and a roundhouse and service buildings, and such things are necessary for a freight terminal. We are not going to abandon the Randolph yards. The Randolph yards are comparatively inadequate. I would say they are too far away from Kansas City (Tr. 4456).

In my judgment and opinion the road is being operated economically at the present time, and I would say that in my opinion it is being as efficiently operated as conditions will permit and in my opinion it is being honestly operated (Tr. 4456-4457).

[fol. 347] Cross-examination:

The conditions of our line from Omaha to Brunswick do not permit us to operate as heavy power between the two

points as we can between Kansas City and St. Louis. That necessarily shortens our trains (Tr. 4457-4458).

Personally, I think we have a good railroad and fairly easy to operate compared with other lines (Tr. 4458-4459).

Referring to Exhibit A-63 in the next to the last column on the right hand side of the page, where there is shown a percentage increase over 1916 of 18.23 per cent. I think that is the average cars per train. The statement was prepared some time ago and I am not certain of that. I can easily figure it out. The average cars per train would increase materially in 1924, due to some heavier freight power that the company purchased as is shown by the latter part of my statement. My explanation for the difference in the increase in average cars per train on other parts of the line and on the line between St. Louis and Chicago is that prior to 1924 we assigned to the line between St. Louis and Chicago some very heavy freight power. We had sufficient heavy freight power prior to 1924 to operate that line. This situation did not prevail over part of the other line that we discussed. The power that we have used on the Chicago-St. Louis line has approximately the same tractive effort as the new power that we assigned to the other territory. The fact that although the loaded cars handled in 1923 and 1924 remained fairly constant, there were approximately two thousand trains less in 1924 than in 1923 on the Kansas City-St. Louis line and approximately a little over two thousand trains more on the St. Louis-Chicago line in 1924 than 1923, was brought about I think, by the increased number of loads handled. The fact that between St. Louis and Chicago we handled in 1924 approximately 144,941 more empties than in 1916, whereas between Kansas City and St. [fol. 348] Louis the increase in number of empties was only 70,498, would increase the load between St. Louis and Kansas City (Tr. 4459-4460-4461).

I did not work up data or have it worked up in preparing this statement as to the effect of the manner in which freight was offered upon filling trains to their capacity. I can only answer for the last two years. Since September, 1923, we could of course, have increased the load per train if we always had a full tonnage train to go for the kind of a train that we were going to run when we ran it. That is the situation in connection with all of the train loading.

The question of whether a given amount of freight is available to full capacity must always be given consideration in any figures dealing with that subject (4462-4463).

Referring to page 5 of exhibit A-63, I have not shown any figures in which the ascent or descent of grade in feet per mile can be computed. It just shows the raise for a certain distance and the small figures above the line are the feet raise. The scale is below. This print does not show the maximum rate or percentage of raise. I do not have those figures with me. This is the only profile that I have here to submit. The figures shown on page 5 indicate the actual rise or fall in feet between the points indicated (4463).

The line from Kansas City to St. Louis is shown on page 5 and the same line appears on page 5½. There is a difference of one foot at the right side of these two pages, one shows 79 and one shows 80. They are intended to be exactly the same profile (Tr. 4464).

I do not think that our expedited freight would consist almost entirely of transcontinental fruits and vegetables and live stock and packing house products. We handle general commodities that are handled by a railroad and I would not attempt to designate all of the commodities we [fol. 349] handle in expedited freight service, not being prepared to do that. As a general proposition, I would say that a large percentage of the expedited freight would be fresh fruits, vegetables and live stock. The Wabash carries considerable live stock. I do not know how its tonnage compares relatively with other lines without figures on that. We serve the St. Louis and Chicago market and handle quite a bit of live stock into Chicago. We handle some live stock to Chicago from Iowa and Missouri both (Tr. 4464-4465).

The average capital expenditures for the last nine years of about $600,000 per year includes the entire mileage of the line, slightly over 2,500 miles. The distance on the Wabash from Council Bluffs to St. Louis is about 500 miles and from St. Louis to Chicago 286 miles. Those are main lines of the Wabash. There is 35 miles of branch line mileage under my jurisdiction west of the river. Practically all the traffic interchanged with the southwestern

lines would move over main lines of the Wabash (Tr. 4466-4467).

My reading leads me to believe that improvements in service similar to those I have mentioned as made by the Wabash with reference to loading, number of cars per train, tractive effort, locomotives, and so forth, have been made by practically all roads in the country. I can not give a comparison of the improvements by the Wabash with the improvements made by other roads (Tr. 4467-4468).

Attorney Towner here stated that the mileage of the Wabash west of the Mississippi was 840 miles.

The witness, continuing:

The total mileage was slightly over 2,500 miles. This [fol. 350] $600,000 improvement covers improvements east of the river as well as west. Some of the traffic which we interchange with the Southwestern Lines moves east of the river (Tr. 4468-4469).

I do not have with me the average gross train haul as compared with the locomotive ratings on the Wabash. I know the ratings of our locomotives and can get the figures of the average gross tons in trains, for the purpose of ascertaining what per cent of the engine rating is utilized. I do not think that this would be a better basis of making comparisons as to the efficiency of operation than the basis I have shown. I am not familiar with the Frisco and M., K. & T. (Tr. 4469).

The Wabash has a water grade line between Kansas City and Brunswick. The line between Brunswick and Moberly is not a very low grade line. We have some pretty heavy grades in there (Tr. 4470).

We got some of our fuel for our Missouri lines from Illinois and some from Missouri. In hauling traffic from St. Louis to Omaha and from St. Louis to Kansas City we used the same rails to Brunswick. From Brunswick to St. Louis, the Omaha and the Kansas City lines constitute the same rails (Tr. 4470-4471).

There followed a discussion as to whether the figures on the two profiles showing the line from Brunswick to St. Louis differed radically. The witness said that he did not believe there was enough difference to amount to anything, that the exhibit for the line from Omaha to St.

Louis was prepared in a hurry and not checked as carefully as he would have liked to check it. The witness said that the grade line should be exactly the same from St. Louis to Brunswick on both of the profiles (4471-4472).

[fol. 351] We generally handle through traffic that goes from Chicago beyond Kansas City to the Southwest through the Hannibal Gateway. A portion of it moves by way of St. Louis. The same is true of traffic in the reverse direction. In handling traffic through the Hannibal gateway, we handle it in through lots, from Decatur to Moberly. We have yards at Hannibal. Between Kansas City and St. Louis, we have but one division point—Moberly. We do not handle through traffic from St. Louis going beyond Kansas City entirely in trainload lots without any intermediate switching. We add to and take off considerable tonnage at Moberly because our line to Hannibal deviates to the northeast (Tr. 4472-4473-4474).

The curvature is not shown on pages 5 and 5½ of exhibit A-63. Any engineer could figure the grades (Tr. 4474).

Thereupon a further discussion arose as to the correctness of the profiles of the road between Brunswick and St. Louis. Attorney Strasser thereupon stated:

Mr. Examiner, as Mr. Sollitt has explained, his profile was hurriedly prepared, and owing to the confusion in the engineer's office on account of having moved from one floor to the other, and not having their workshop in order, it may be that they put two different men on the work of preparing these two profiles. We will be glad to have them checked and corrected as to any errors that may be found.

The witness thereupon said that he would prepare and send to the parties a corrected exhibit (Tr. 4475-4476).

[fol. 352] Redirect examination:

I think that we could have hauled heavier trains in both 1916 and 1924 and that if we had *had* always had the maximum amount of freight that we could haul at any one time of the particular class of freight we could haul, we might have increased the tonnage on our trains in 1924 as well as in 1916, under the same conditions (4474).

C. L. HINKLE was thereupon called as a witness and testified as follows:

My name is C. L. Hinkle, and I am general manager of the Chicago Great Western Railroad. I have held that position about five years, during which time I have had complete supervision and direction of operation on that railroad (Tr. 4474).

As reflecting the progressive development in transportation efficiency on the Chicago Great Western Railroad during the thirteen year period 1912 to 1924 inclusive, there is cited the fact that in 1912 the average gross tons per train mile on the route between Council Bluffs and Chicago was 1,237, this being steadily increased in the succeeding years until for the year 1924 it amounted to 1,665 tons or an increase of 34.8 per cent in the year 1924 over that of 1912.

In the year 1918 the increase was 25.6 per cent over the average gross tons per train mile in 1912. In the year 1918 the increase was 25.6 per cent over the average gross tons per train mile in 1912, the figures for 1918 being given simply because it is a half way point between 1912 and 1924 (Tr. 4478).

[fol. 353] For the route between Kansas City and Chicago the average gross tons per train mile in the year 1912 was 1262 and in 1924 was 1761 or as increase of 39.5 per cent. In 1918 the increase was 18 per cent over the average gross tons per train mile in the year 1912.

For the route between St. Paul and Chicago the average gross tons per train mile in the year 1912 was 1344. In the year 1924 it was 1964 or an increase of 46.1 per cent in the thirteen year period. In the year 1918 the increase was 40.4 per cent over the gross tons per train mile handled in the year 1912. (Tr. 4478).

On the route between Kansas City and St. Louis the average gross tons per train mile in the year 1912 was 1018. In the year 1924 it was 1731 tons or an increase of 70 per cent. In the year 1918 the increase was 35 per cent over the average gross tons per train mile handled in the year 1912.

Expressed in another way, if the tonnage moved between Council Bluffs and Chicago in the year 1918 had been handled on the basis of the average train load of the year 1912,

it would have required 331,474 train miles more than was actually operated in the year 1918, equivalent to an addition of 25.6 per cent; or if the tonnage moved between Council Bluffs and Chicago in the year 1924 had been handled on the basis of the average train load of the year 1912, it would have required 574,744 train miles more than was actually operated in the year 1924, equivalent to an addition of 34.6 per cent.

If the tonnage between Kansas City and Chicago in the year 1918 had been handled on the basis of the average train load of the year 1912, it would have required 299,191 train miles more than was actually operated in the year 1918, [fol. 354] equivalent to an addition of 18 per cent; or if the tonnage moved between Kansas City and Chicago in the year 1924 had been handled on the basis of the average train load of the year 1912, it would have required 744,342 train miles more than was actually operated in the year 1924, equivalent to an addition of 39.5 per cent.

If the tonnage moved between St. Paul and Chicago in the year 1918 had been handled on the basis of the average train load of the year 1912, it would have required 451,189 train miles more than was actually operated in the year 1918, equivalent to an addition of 40.4 per cent; or if the tonnage moved between St. Paul and Chicago in the year 1924 had been handled on the basis of the average train load of the year 1912, it would have required 680,823 train miles more than was actually operated in the year 1924, equivalent to an addition of 46.1 per cent.

If the tonnage moved between Kansas City and St. Paul in the year 1918 had been handled on the basis of the average train load of the year 1912, it would have required 432,115 train miles more than was actually operated in the year 1918, equivalent to an addition of 38 per cent; or if the tonnage moved between Kansas City and St. Paul in the year 1924 had been handled on the basis of the average train load of the year 1918, it would have required 936,675 train miles more than was actually operated in the year 1924, equivalent to an addition of 70 per cent. (Tr. 4480.)

[fol. 355] That illustrates in its own way the increase in train loading which has occurred on car line during that period.

While the Chicago Great Western Railroad has not attained the ideal in the establishment of a modern plant for the conduct of transportation, it nevertheless has roadway the standard of which is comparable with that of the other Chicago-Missouri River lines, and which is equipped with appurtenance, motive power and rolling stock that are modern and from which is realized the greater measure of efficiency and economical operation. (Tr. 4480-4481.)

The expenditures for additions and improvements made by the present company from September 1, 1909, to December 31, 1924, to keep pace with natural development of the territory served, and more particularly to gain the benefits of improved machinery, devices and plant appurtenances have totaled $32,843,292, mostly of borrowed money. This has been at the rate of $1,481,652 per annum to meet the minimum requirements of our service, but if the growth of business continues we estimate that our future annual requirements for additions and improvements will be $3,000,000 of new capital. I mean Additions and Betterments. (Tr. 4481).

While we are constantly striving to effect additional economies in operation without detriment to the service and without additions to investment, the facts are that the railroad is being operated about as economically as possible with the existing plant and with due regard for efficient service.

Many devices for increasing the efficiency of the personnel are practiced on the Chicago Great Western Railroad. A safety organization has been perfected, with which practically every officer and employe is identified and in which keen interest is taken by all. In the national com- [fol. 356] petition with other railroads, the silver replica of E. H. Harriman memorial gold medal, awarded by the American Museum of Safety, for the best record of an individual operating division in accident prevention and health promotion, was won by our railroad. (Tr. 4481-4482.)

The work of this safety organization is reflected in the fact that during the ten year period ended December, 1924, there was brought about an increase of 73 per cent in all casualties incident to the carrier's operations, notwithstanding the hazards were naturally increased by a 47.5

per cent growth in the volume of traffic handled during the same period with increased personnel.

A similar organization devotes itself to freight claim prevention and its work is reflected in the fact that there was more than $32,000 decrease in the amount of claims paid for loss and damaged freight in the year 1924 compared with the previous year, equal to a decrease of 16.08 per cent. The previous year was 1923, the year following the strike. (Tr. 4482.)

The interest of train and engine service operatives as well as other employes directly or indirectly concerned in the conservation of locomotive fuel is aroused and kept constantly alive by competitive contests in which the operating division making the best record in competition with the others, in road and yard service respectively, is awarded cash prizes totaling $750 per quarter, which the employes are free to spend for such purposes as they may elect. For the year 1924 as compared with 1923, there was effected a saving of 66,302 tons of coal due entirely to decreased consumption per service unit and the value of which—at [fol. 357] 1924 price f. o. b. locomotive tenders—was $228,047. In addition thereto the management takes credit for a saving of $390,452 in the year 1924 by securing the advantage of a long term contract for the supply of its locomotive fuel. In other words, the advantage as gained was a material reduction in the price of the coal over what we had previously been paying. If the price goes down, we have a saving clause in the contract which permits us to withdraw, but holds the other fellow. (Tr. 4483-4.)

By more intense supervision and interest on the part of employes and subordinate officers and the co-operation of the company's patrons, the average miles per freight car per day have been steadily increased over a period of years. In the year 1920 it was 24.0; in 1921, 26.2; 1922, 27.7; 1923, 38.3, and the average for the year 1924 was 40.3 miles per car per day, an increase of nearly 68 per cent within a period of four years and which largely compensated for the Great Western Railroad's deficiency in freight car ownership related to the volume of traffic handled. This record is constantly being improved upon, and for the month of October, 1925, the average miles per freight car per day was 49.6. This includes line haul, empty, loaded,

and bad order. Every car on the track. That is the figures submitted to the *figures submitted to the* American Railway Statistical Bureau, who compiled the statements. It includes also private line cars. Our railroad is approximately 1,500 miles long. (Tr. 4484-4485).

Most substantial economies have also been effected in reducing the amount of working capital invested in stock materials directly as to quantities and indirectly the cost of handling excess stocks. As of February 28, 1920, the end of the Federal control period, the aggregate value of [fol. 358] materials on hand was $2,374,567, whereas on December 31, 1924, the aggregate value of materials then on hand was but $1,122,309—a decrease of nearly 53 per cent. Comparing the value of materials on hand at the close of the year 1924 with the close of the year 1923, there was a reduction of over $480,000 or more than 29 per cent. (Tr. 4485.)

As heretofore stated the Great Western Railroad is at present being operated about as economically and efficiently as possible. Any further steps in that direction will have to come as the result of capital expenditures, and we have not at this time the capital to invest. In the first six months of 1923 the carrier had a net income of $161,190; in 1924 it had a deficit of $207,220 which means that the 1924 net income was $368,410 or 229 per cent less than in 1923. I refer to net railway operating income. In 1925 there was a deficit of $432,070, which means that the 1925 net income was $393,260, or 368 per cent less than in 1923. I do not mean after payment of fixed charges. This is net operating income, the deficits being $432,070 (Tr. 4485-4486).

The deficit of $432,070 at the end of June this year is from normal operation of the property, and we say "normal operation" because very large extraordinary expenses incurred during the month of June have not yet been changed into the accounts. In the middle of that month storms and floods in Iowa destroyed a number of bridges and miles of roadways and embankments, and did great damage to other valuable property of the carrier. From the evening of June 14th to June 29th inclusive, 75 miles of the carrier's main track between Dubuque and Oelwein was entirely [fol. 359] abandoned for traffic, during which period the trains of the Chicago Great Western were detoured over other railroads at a great expense.

The total loss to the company on account of the storm damages will be approximately $400,000 and the amount expended in June will bring the deficit at the end of the first six months of the year up to $536,070, which leaves approximately $300,000 to be expended and charged into our accounts after the end of June. These figures I have given with respect to our net operating income are for the first six months of each year (Tr. 4486-4487).

Rolling stock, and particularly freight cars, is in need of repair but the company has been obliged to curtail this important work on account of the large cash requirements to carry on repairs to property damaged by flood. It has been necessary to close the shops for protracted periods and which would not have been done but for the decline in revenues and the necessity for conservation of funds.

With all of the savings effected by rigid economy, and by curtailment of maintenance expenses to the lowest point consistent with safe operation of the property, the company has been unable to earn its interest and fixed charges during the first six months of this year; and it does not appear at this time that earnings will increase sufficiently in the remaining months to overcome the existing deficit (Tr. 4487).

Attorney Towner thereupon offered as exhibit A-64, a profile of the Chicago Great Western Railroad between Chicago and Council Bluffs (Tr. 4488).

(Exhibit A-64 was received in evidence.)

[fol. 360] Attorney Towner thereupon offered as Exhibit A-65, a profile of the Chicago Great Western Railroad between Chicago and Kansas City (Tr. 4488).

(Exhibit A-65 was received in evidence.)

Attorney Towner thereupon offered in evidence as Exhibit A-66 a profile of the Chicago Great Western Railroad from St. Paul to Council Bluffs (Tr. 4488).

(Exhibit A-66 was received in evidence.)

Attorney Towner thereupon offered in evidence as Exhibit A-67, a profile of the Chicago Great Western Railroad from Chicago to St. Paul (Tr. 4489).

(Exhibit A-67 was received in evidence.)

The witness, continuing:

Referring to Exhibit A-64, I do not believe much explanation is necessary as the profile speaks for itself. It

shows very clearly the rolling nature of the country traversed and the fact that the country wherein all our lines lie is of a rolling nature. The majority of the ridges running from north to south make it necessary for us to first raise and then decrease our tracks in order to get over the ridges, making what the railroad men know as a roller coaster road. This has a very material effect upon train loading as compared with a practically level line. It is obvious that the train load must be materially decreased in order to get over the rolling grades at such points as we do not furnish a helper engine, at a heavy expense. It is not practical to use helpers on a line such as this at all points. [fol. 361] It is impractical because of the constant succession of rises and falls. The physical situation has the effect of decreasing the train loading, because of the impracticability of using helpers (Tr. 4489-4490).

Referring to exhibit A-64, showing the line from Chicago to Council Bluffs, the numbers just above the grade line of the railroad are the percent of ascending or descending grade as shown on the profile. The names on the top are the names of the stations and the figures at the bottom are the tonnage ratings of our Mikado locomotives in either direction. The character of locomotives used in either division is shown. A large majority are Mikado locomotives. Practically all of our trains on the eastern division, Oelwein to Chicago, and the northern division, Oelwein to the Twin Cities is handled by the Mikado locomotives. Our grade line on the western division is easier than on either of the other divisions, that is, the division between Oelwein and Council Bluffs. The tonnage ratings of the locomotives are in gross tons, that is, the tonnage that the locomotive of that type can haul over the line indicated (Tr. 4490-4491-4492).

All of these profiles, A-64 to A-67 inclusive, are made up precisely the same way, and show the same information (Tr. 4492).

Cross-examination.

The examples showing that the gross tons per train have materially increased from the year 1912 successively to 1924, indicates that we have a heavier train loading. In this increase, the character and amount of the freight

offered at any given time would be a factor. We are not loading our trains to full tonnage capacity on account of the nature of the traffic we handle. That would be true throughout the examples I gave. I stated our traffic in 1924 was materially heavier than in 1912 (4493). Unless there was a difference in the nature of traffic to be handled, the [fol. 362] fact that the traffic is heavier affords a greater opportunity to load our trains up to the maximum carrying capacity of the engine. Any increase in the volume of business to be handled will tend toward increasing the train load. I would not say that the percentage of increase in train loading, 1924 over 1912 would be materially affected by the greater tonnage in 1924. That would have some effect. I think there are other factors that would have more to do with the train loading than the increased volume of the traffic. The availability of a greater amount of tonnage helps (Tr. 4492-4493-4494).

On our Kansas City to Chicago line, the gross tons per train mile increased 39.5 per cent, 1924 over 1912. On the Kansas City-St. Paul line the gross tons per train mile increased 70 per cent in this period. Traffic moving over the Kansas City-St. Paul line and Kansas City-Chicago line, would move over that part of our line from Kansas City to Oelwein, Iowa. The distance from Kansas City to Oelwein is more than half of the distance either between Kansas City and St. Paul and Kansas City and Chicago. The fact that the gross tons per train mile increased 39 per cent on the Kansas City-Chicago line and 70 per cent on the Kansas City-St. Paul line does not indicate that there were some other factors than operation that caused the increased number of gross tons per train mile. Except as I have previously stated, an increased volume of tonnage would always help in keeping up your train load. There has been a very marked difference on the train load in what is known as Southern division between Oelwein and Kansas City.

I do not arrive at the conclusion that the greater demand of the traffic has had a great deal to do with the ability to load our trains to greater capacity. Take it for granted [fol. 363] that the increase on the eastern division from Oelwein to Chicago, the increase in train load has not been so marked, but we do have a marked increase in train load on the southern division, Kansas City to Oelwein, and the

northern division, Oelwein to St. Paul. I think that probably will account for the difference in the per cent of increase. The increase on the eastern division is around 26 per cent. I do not think that the character and amount of traffic have been the principal factor in increasing the train loading. Exactly the same conditions apply on Kansas City to St. Paul and Kansas City-Chicago traffic insofar as the line between Oelwein and Kansas City is concerned. The trains come into Oelwein from the southern division when traffic is between the northern and eastern divisions. It is a break-up point (Tr. 4495-4496-4497).

I said that our line was somewhat of a roller-coaster line. To a certain extent, compensating grades are present in such a line. To a certain extent the grade resistence on the up grade is overcome by the memorandum acquired on the down-grade. That is true of short grades, but when you come to grades of five or six miles only of one per cent, that cannot be compensated.

Our profiles show that we have grades practically six miles long that are one per cent grades. There is not a uniform rise of 52 feet to the mile, for six miles, but the majority of the grade would be one per cent. Referring to the Chicago-Kansas City profile, starting from Des Moines westward, you will find that at mile pole 400, we start to climb. The first ten miles is approximately two per cent. The next ten, approximately one-half of one per cent, and [fol. 364] the next three and a half miles is one per cent. That is at the top of the hill, so there is no compensating feature there. I have no scale, so I am not absolutely correct. We do not use helper service at that point.

Going down the line you will find quite a lot of one per cent grades indicated in both directions. For the most part of the line, so far as mileage is concerned, there is a 6/10ths of one per cent grade. A 6/10ths of one per cent grade is considered a very fair railroad; 5/10ths is better (Tr. 4497-4498-4499).

I do not have the figures showing the cost of conducting transportation. My impression is that it was around 81. I am talking about operating expenses. I cannot give you the figures. I can furnish it to you. I cannot answer under oath without looking up the figures what the cost of

conducting transportation for the first six months of this year was (Tr. 4499).

The witness thereupon agreed to furnish the transportation figures referred to and the joint facility rates, debit and credit for the year 1924 (Tr. 4506).

GEORGE B. VILAS was thereupon called as a witness and testified as follows:

My name is George B. Vilas. I am general manager of the Chicago and North Western Railway Company, located at Chicago. I have been employed by the North Western for 37 years in the operating and traffic departments. I have been train master, assistant superintendent, superintendent, assistant general superintendent, general superintendent, assistant general manager, and general manager. In my present position I have entire charge of the operation over the entire Chicago and North Western Railway. My testimony in this case will also deal with the Chicago, St. Paul, Minneapolis & Omaha Railroad, as far as my knowledge goes. That is an affiliated company of the North [fol. 365] Western. I think that it is in the process of being taken over and operated by the Northwestern. I do not know that that has actually been done but it is being done (Tr. 4500-4501).

The general traffic of the Chicago and North Western Railway, the same as other lines, has shown extraordinary increases within the past twenty-five years. The increased tractive power of engines, and increased capacity of cars, reductions of grades, and other improvements, have enabled the Chicago and North Western Railway Company to handle 120 per cent increase in net ton miles per mile of road in 1924 compared with 1902, with an actual decrease in train miles per mile of road. This has been accomplished by increasing the average freight train load from 658 gross tons in 1902, which is the earliest year for which gross ton mile statistics are recorded, to 1295 gross tons per train for the year 1924 (Tr. 4501).

This Southwestern business under consideration is interchanged with the North Western largely at the following

points: Chicago, Omaha, Benld, Superior, Nebraska, and Des Moines. Denld is in the southern part of Illinois. These points are all located on branch lines with the exception of Omaha and Chicago, and the cost of handling on the branches is considerably more expensive than the double track main line. This traffic is brought to the main line, however, and moves in considerable volume over the double track railroad between Omaha and Chicago. On this line between Omaha and Chicago dead freight tonnage is handled as maximum efficiency, net tons per train having in- [fol. 366] creased from 306 tons in 1900 to 675 tons in 1924, an increase of 120 per cent.

A considerable volume of this business originates or terminates in Wisconsin. Paper, cheese and dairy products move in large quantities from northern Wisconsin points and a substantial East and northbound movement goes to Milwaukee and other Wisconsin points, nearly all being handled through the expensive Chicago switching district. The growth of traffic, development of the territory served, and the increased congestion at terminals, together with the necessity for decreased operating costs, have required the expenditure of large sums of money on the Chicago and North Western property for improvements. Since 1900, the capital expenditures for improvements of road, including additional main tracks, yard and terminal improvements, ballasting, heavier rails, installation of signal protection, track elevation, depressions, and other elimination of grade crossings, have amounted to $194,322,204. The capital expenditures for improved and additional equipment—other than replacements—during the same period, amounted to $97,982,406. This does not include expenditure of $57,809,977 for new lines and extensions built to develop new territory, but includes merely improvements in connection with the territory then served. A large part of the above expenditures were incurred in the improvement of lines in the densely populated sections of Illinois, Iowa, and Wisconsin which handle the through traffic under consideration (Tr. 4502-4503).

The following capital expenditures for major improvements have been made on the line between Chicago and Omaha since 1900: Second, third and fourth tracks and [fol. 367] Bluffs and Chicago, $5,396,000. New Mississippi grade revisions $7,290,000. New Grain elevators, Council

River bridge at Clinton, Iowa, $1,450,000. New Des Moines River bridge at Boone, Iowa, $1,102,000. Engine terminals and yard improvements, $2,795,000. Elevating tracks in Chicago district, $6,026,000. Chicago terminal, $26,767,000. Total, $50,832,000 (Tr. 4503-4504).

The track elevation, new passenger terminal and other improvements in Chicago were largely necessitated by the congestion of freight traffic in this territory, and the necessity of separating the two. The passenger terminal improvements include the elevated tracks leading into the terminal which enables us to separate the passenger and freight traffic, enabling the freight traffic to be given a highway level delivery, so that our freight and passenger traffic in the Chicago terminal district is not handled on the same tracks. It was absolutely necessary to have the separation in order to enable us to properly handle our freight traffic. The cost of elevating and depressing tracks, construction of additional main tracks and cut-off between Chicago and Milwaukee, and grain elevator at Milwaukee have amounted to approximately $10,363,806 since 1900 (Tr. 4504).

The above improvements do not include extensive improvements of bridges, station buildings, ballast, signal and other improvements running into millions of dollars, but not assigned specifically to these lines, but all of which are used to a considerable extent in handling this Southwestern business which is distributed generally over the Chicago & North Western lines. The average tractive power per freight engine has been increased from 18,000 [fol. 368] to 41,000 pounds from 1902 to 1924, an increase of approximately 126 per cent. All main line freight engines are now equipped with superheaters, brick arches, coal pushers, power reverse gears, automatic air operated fire doors, and other modern improvements, and the engines which handle the bulk of this traffic have a tractive power of over 60,000 pounds per engine (Tr. 4504-4505).

While many of the improvements to which I have just referred are made for the specific purpose of improving operating conditions and reducing cost of handling traffic, the North Western Railway Company has been forced to make

many large capital expenditures, which are entirely unproductive and do not reduce the cost of operation. Among these items is the expenditure for track elevation and track depression in the Chicago and Milwaukee districts, amounting in all to approximately fifteen million dollars. The City of Chicago had an ordinance that compelled us to elevate. The City of Milwaukee forced grade separation by depression on both sides of Milwaukee, both the east side and the west side; and all of these improvements at the larger terminals and larger stations were forced by municipal action. Extensive grade separation at Clinton, Iowa, Sterling, Illinois, Racine and Kenosha, Wisconsin, and other similar grade separations have been forced by municipal and state authorities. These projects are constantly being advanced by various communities as the population increases, and will absorb an increasingly large amount of capital funds in the near future. They are the direct result of the increasing density of population and the development of the territory through which the North Western Railway operates (Tr. 4505-4506).

[fol. 369] In addition to the physical improvements referred to every effort has been made by the management to secure economies in operation by specializing in organization and conducting campaigns in an effort to secure cooperation of employes in bringing about specific economies in the various branches of the service; for example; Each division has a Safety First Committee, consisting of members from each of the crafts, as well as the officers of the division. These division committees make recommendations which are passed upon by the General Safety Committee, consisting of general officers. The personnels of all committees change each year. At the end of each year a safety banner is awarded to the division giving the best results in this regard. This entire matter is under the general supervision of the general claim agent.

The Chicago and North Western Railway Company was the pioneer railroad establishing safety first measures, and the results obtained show efficiencies of such measures, as follows: Employes killed, 1920, 62; 1924, 30. Employes injured: 1920, 7,101; 1924, 4,405. Total persons killed: 1920, 196; 1924, 187. Total persons injured: 1920, 8,461; 1924, 7,148. Claims paid therefor: 1920, $2,831,343; 1924,

$1,405,478. This was a saving of over 50 per cent (Tr. 4506-4507).

An organization has been built up to bring about the greatest economies possible in the saving of fuel, with a general fuel inspector in charge, who has subordinates reporting to him. A strenuous campaign is continually being waged and we have developed reductions in the coal [fol. 370] consumption through the education of our enginemen and firemen and employes as to the proper methods of burning coal, thereby securing greater efficiency with the coal consumed than formerly. Fuel consumed per thousand gross ton miles in 1920 was 212.3 pounds; in 1924 was 178.3 pounds. The decreased rate of consumption shows an actual reduction in expense for the year 1924 of $1,230,000 as compared with 1920. That does not take into consideration the increase in the price of the fuel: just the economy in consumption (Tr. 4507-4508).

In the matter of freight claim prevention a general committee and divisional committees have been organized. Stations have been organized with a view to specializing on the prevention of loss and damage to freight, and a strenuous campaign is continually in progress to obtain the co-operation of our employes, and they in turn have secured the close co-operation of the shippers in improving the method of packing, marking, billing and unloading of freight. Further, with the aid of impact recorders we have been able to locate the place and cause of damage, and correct. Fruit and vegetable inspection has been inaugurated at each of our larger points, and this insured protection to this company and our connections against disease of fruit and vegetables, and a proper cooper-ing organization at each of our larger terminals has enabled us to realize a material saving on damaged shipments. Furthermore, frequent inspection of freight trains on route has greatly reduced the loss and damage. Our claims have been reduced from $2,831,343 in 1920 to $1,354,623 in 1924. This is a reduction of over fifty per cent (Tr. 4508).

[fol. 371] In order to show the character of the line over which this southwestern traffic is handled by the North Western System, condensed profiles of the following lines have been prepared and are offered herewith as exhibit A-68. There are eight profiles in this exhibit (Tr. 4509).

The eight profiles were thereupon offered in evidence as exhibit A-68.

(Exhibit A-68 was received in evidence.)

[fol. 372] The first sheet there is Omaha, Nebraska, to Chicago.

The second, Benld, Illinois, and Nelson,—that is with the junction of the main line.

Superior, Nebraska, and Missouri Valley, where it shows the main line.

Green Bay, Wisconsin, via Fond du Lac, to Chicago, and Green Bay, Wisconsin, via Manitowoc, to Milwaukee, Wisconsin.

Des Moines, Iowa, to Ames, Iowa

Sioux City, Iowa, to Omaha, Nebraska.

St. Paul, Minnesota, to Omaha, Nebraska, via the Chicago, St. Paul, Minneapolis & Omaha. I think that should read St. Paul to Sioux City. That ought to read St. Paul, Minnesota, to Sioux City.

These profiles will indicate that the territory traversed by the Chicago and North Western is not a flat country. Heavy grades, ranging from .5 per cent to .8 per cent occur at frequent intervals over the entire line, making the operation of helper service for the most part impractical. If these grades were largely concentrated in one or two locations the pusher or helper could be utilized, thereby greatly increasing the tons per train on the balance of the line. We have included a line from Sioux City to Omaha on the west side of the river, and we have included our line from Omaha to Sioux City on the east side of the river (Tr. 4509-4510).

On the line of the Chicago, St. Paul, Minneapolis & Omaha Railway Company between Omaha and Sioux City there are several grades of over 1.25 per cent both north and southbound; five of which are over a mile in length and one two miles.

[fol. 373] Between Sioux City and St. Paul there are seven grades southbound of over one per cent ond one of 1.25 per cent for 5,600 feet. Northbound there are six one per cent grades between Sioux City and St. Paul (Tr. 4511).

On exhibit A-68 the elevation is on the left margin. The mileage is shown at the bottom. The small figures directly under the grade line of railroad show the number of feet above Lake Michigan. The elevation can be computed in

percentages from the statement, but I have not shown that here (Tr. 4511-4512).

You will notice, for instance, Arcadia Hill grade reduction of four miles from one per cent to .7 per cent, Arcadia Hill is the first big jump out of Omaha. I have indicated that reduction and other reductions by dotted lines or by a statement below or above. The exhibit shows from an engineer's standpoint just what condition is found at each place, so far as possible. From the statements which appear on the profiles, the percentage of the grade can be computed in every instance. They are all on the same basis (4512).

I would like to show for the Omaha Road a little general statement here: The Southwestern traffic of the Omaha Railway, that is, the Chicago, St. Paul, Minneapolis & Omaha Railway, is very largely interchanged at Omaha. This company has shown the same general tendency toward the increase of economy and efficiency in operation as the North Western line proper. The volume of traffic and tons per train between Omaha and St. Paul have shown consistent increases which are due in part to the increased tractive [fol. 374] power of engines, changes in grade and alignment, and increased supervisory effort. During the past few years expenditures for improvement of grade, alignment, etc., on this line between Omaha and St. Paul have amounted to $1,708,068.

[fol. 375] The Omaha Railway has secured most satisfactory results with a minimum capital invested in improvements, but has now reached a point where large capital expenditures are necessary in order to obtain further improvement in operating efficiency. The principal obstacle is the financing of such improvements under present conditions (Tr. 4513-4514).

I have not included in any of the profiles the line of the North Western from Chicago to the Twin Cities. That was omitted because it would not be used in this traffic (Tr. 4514).

I would say that the Omaha and the North Western Companies are now being operated as efficiently and economically as possible under the conditions that exist today and under the traffic that exists and the volume of traffic east-

bound as compared with traffic west-bound. Any increase in the present efficiency and economy would have to come from the expenditure of money from capital account, and that capital account is not available on the part of either company (Tr. 4515).

Cross-examination:

The Chicago and North Western Railway Company is one of the heaviest handlers of transcontinental fresh fruits and vegetables. I would not say that that traffic is very expensive and burdensome to our line. I am not prepared to say that. The handling of that traffic probably takes more care and undoubtedly takes more operating efficiency to prevent claims. It must be handled efficiently and expeditiously. By handling it expeditiously we try to avoid it. I cannot say that the North Western is one of the heaviest live stock handling railroads in the United States. About ten per cent of its traffic would be live stock. That is my own estimate. From my standpoint I would say that the North Western is a very heavy live stock carrier. The [fol. 376] railroad handles packing house products and fresh meat not in as large quantities as I would like to have. This traffic requires fairly expeditious service. We haul into Chicago every Monday morning a great deal of live stock, but we have never let it interfere with our passenger business. It interferes with our freight business to a certain extent. We would not let it interfere to a large extent. There is nothing very grave about this situation. We manage to get not only the live stock and the fruit handled; we also handle our dead freight. We got along with that very nicely and do not have any grave difficulties in handling it (Tr. 4516-4517).

The fresh fruit and vegetable traffic and live stock and packing house products take the most care of any classes of traffic. They are handled in great volume by the Chicago and North Western Railway. I am not prepared to say whether that traffic constitutes any part of the interchange with the southwestern lines. That is, I would not say that we do not handle any southwestern business of a similar class or traffic as live stock and fruits and vegetables. I do not know whether we do or not. The greater part of the

fruit and vegetables handled by the North Western is transcontinental. The greater part of the live stock which we handle does not come from Nebraska, Kansas, Wyoming and the northwest territory. On the contrary it comes from Iowa. None of those territories are southwestern territories (Tr. 4518-4519).

Here Attorney Larimore requested Attorney Towner to furnish a statement in tons of the total traffic through and local handled by the Chicago and North Western Railway during June, 1924, and then separately the amount of such triffic moving to and from the territory in the southwest involved in this proceeding. Attorney Towner said that the southwest traffic was shown in Exhibit "A-49". Attorney [fol. 377] Towner agreed to furnish the statement of total traffic handled during the month of June, 1924, if the North Western had such a statement (Tr. 4519-4520).

The witness (continuing): Our road handles a great amount of grain from Chicago to the Twin Cities and points east from Iowa and Nebraska and that part of the country. Proportionately it has very little grain tonnage to the southwest. It has a great suburban traffic into Chicago. I would not say that it is the largest (Tr. 4520-4521). The separation of freight tracks and passenger tracks in Chicago enables us to handle more efficiently our passenger and freight traffic out of Chicago. We handle dairy products from Wisconsin into the southwest. They move via Chicago because that is more economical and almost the short mileage. That goes through the Proviso yards, a part of the Chicago yards. Some of it would go through the E. J. & E., the Indiana Harbor. I am not prepared to say whether there is a great deal of traffic bound for Texas from Wisconsin points or whether that would go through the Twin Cities. I do not know how much would go by the other route. I do not believe any of it would, but I am not a traffic man and not prepared to say. From my knowledge I would say "No." The short line from Plymouth, Wisconsin, to Texas is through Chicago. Most of the traffic moves that way. I do not know how much traffic from Plymouth would go via Chicago as compared with what would go via Des Moines. It depends on how it was routed (Tr. 4521-4522-4523).

I believe that the North Western has recently received an increase in its suburban passenger fares in the Chicago district. That figure was, roughly, a twenty per cent in-[fol. 378] crease. I do not know the total amount of the increase in dollars and cents per annum. I would not want to go into that matter because I do not know anything about it (Tr. 4523).

The junction points via which the interchange traffic from the southwest moves are Chicago, Omaha, Superior, Benld, and Des Moines. Benld is on the southern line. The branch line points are Benld, Des Moines and Superior. It is 166 miles from Superior to our main line at Omaha. We deliver the traffic at Missouri Valley. I am just talking approximately now. It is 34.8 miles from Des Moines to our main line junction and Benld is 190 miles. That is a heavy density line. We have our company coal business down there. Benld is where we have our mine lines (Tr. 4524).

We interchange traffic all the way down wherever we cross the southwestern roads at the different junction points, Bando or Campo, and so forth. It is very thinly populated territory down there and all we have is just a junction and a side track where we set the cars out to be taken southwest (Tr. 4525).

We have considerable mileage in Nebraska and South Dakota and also in Wyoming.

I would say that the cost per unit of transportation which is straight operating cost is more out there than in the thickly populated territory. Possibly our thickly populated territory would include Iowa, Illinois and Wisconsin. Minnesota is pretty nearly in the branch line territory. South Dakota, Nebraska and Wyoming is approximately what we call branch line territory so far as the North Western is concerned. Illinois and Wisconsin are main line [fol. 379] territory for the North Western as I consider them. The operating conditions, so far as grades, and so forth, are concerned have been burdensome in this territory, more so than in the main line territory. We spend money to cut down the grades on the main line, but not on the branch line because the traffic does not warrant it (Tr. 4525-4526-4527).

I would say that via rail connections we are probably 100 or 120 miles from St. Louis. That is just a guess (Tr. 4527).

We have made a steady and substantial increase in our revenue income in the last two or three months. In October we made a splendid showing compared with the previous months (Tr. 4527).

(Attorney Towner here stated that the witness was not able to talk about these matters and said that he did not want to be put in the position of having an operating man testify as to financial conditions.) (Tr. 4527-4528.)

[fol. 380] E. E. NASH was thereupon recalled as a witness and testified as follows: My name is E. E. Nash and I am chief operating officer of the Minneapolis & St. Louis Railroad. I have worked in the accounting, traffic and operating departments of various railroads for thirty-nine years, and have been with the Minneapolis & St. Louis for five years. I have full charge of the operation on that railroad. The present Minneapolis & St. Louis Railroad consists of a consolidation of the Iowa Central, former Minneapolis & St. Louis Railroad and a portion of the Des Moines Valley Railroad. The lower right hand figure on Exhibit A-69, which is offered in connection with my testimony, is a map showing the location of the railroad (Tr. 4531).

The Exhibit referred to was thereupon offered in evidence as Exhibit A-69.

(Exhibit A-69 was received in evidence.)

[fol. 381] The former Minneapolis & St. Louis Railroad extended from Minneapolis, Minnesota, to Angus, Iowa, via Albert Lea and Fort Dodge, from Minneapolis to Storm Lake, Iowa, and from Minneapolis to Akaska and Leola, South Dakota. The former Iowa Central extended from Albert Lea, Minnesota, to Albia, Iowa, and to Peoria, Illinois, via Oskaloosa, and the branches from Hampton, Iowa, to Algona, Iowa, Marshalltown, Iowa, to Story City, Iowa, Grinnell to Van Cleve, Iowa, and Grinnell to Montezuma, Iowa, and New Sharon to Newton, Iowa. That portion of the former Des Moines Valley Railroad which was taken

over by M. & St. L. is between Des Moines and Ruthven, Iowa. The Minneapolis & St. Louis Railroad also has running rights over the Rock Island between Oskaloosa and Des Moines, Iowa, Illinois Central between Fort Dodge and Tara, Iowa, C. M. & St. P. between Ruthven and Spencer, Northern Pacific between Minneapolis and St. Paul (Tr. 4532).

The consolidation of these various railroads was effected fifteen to twenty years ago. The owned mileage now approximates 1530, and the railroad operates approximately 1630 miles, the same being located in the states of South Dakota, Minnesota, Iowa and Illinois. Each of the railroads forming this consolidation was originally built as a local line for the purpose of handling local traffic only. None of them were built or designed as through lines of railroad between large terminals. The various lines were of light construction but were amply sufficient to serve the needs of the territory, which at that time was sparcely settled. Very little expenditure was made for the purpose of providing low grade lines or to avoid narrow cuts and narrow fills, and at that time timber was so cheap that instead of making fills, many miles of trestles were used. At [fol. 382] that time it was not the common practice to interchange equipment between railroads (Tr. 4532-4533).

With the development of this territory, other neighboring lines have installed heavier rail, ballast, ties, bridges and trestles, and have reduced the grade lines and curvatures so as to permit of the handling of heavier rolling stock and the free interchange of equipment. The Minneapolis & St. Louis has developed from a local railroad serving only the stations on its own line, to a line of through railroad from Minneapolis, Minnesota, to Peoria, Illinois; from Minneapolis, Minnesota, to St. Louis, Missouri, via Albia; from Minneapolis to Omaha via Fort Dodge, and from Minneapolis to Sioux City via Storm Lake, with a great many important junction points between east and west lines, such as Nemo, Illinois, with the Santa Fe; Monmouth, Illinois, with the C. B. & Q.; Albia, Iowa, with the C. B. & Q.; Grinnell, Iowa, with the Rock Island; Marshalltown, Iowa, with the C. & N. W.; Grand Junction, Iowa, with the C. & N. W.; Ackley, Iowa, with the Illinois Central; Albert Lee, Minnesota, with the Illinois Central and the C. M. & St. P.; Waseca, Minnesota, with the C. & N. W.;

Twin Cities with all connecting lines at that point; Des Moines, Iowa, with the various railroads entering there, and numerous other points (Tr. 4533-4534).

The practice has become general to interchange freight from one railroad to another, in which the Minneapolis & St. Louis participates, and it is also the originating line of a large tonnage of agricultural products, live stock and dairy products.

[fol. 383] In this change in the practices of railroading, with the development of the territory, industries, etc., the Minneapolis & St. Louis has been unable to keep pace with its competitors on account of its insufficient resources. Improvements have been made as rapidly as funds were available. The principal tonnage lines are between Minneapolis and Peoria and Minneapolis and Albia and have been strengthened and ballasted; the capacity of the power has been increased as such as is permitted by the size and strength of the bridges; roundhouse and shop facilities have been increased and some of the sidings lengthened. About twenty years ago three important grade reductions and revisions were made. All of these improvements, including the widening of cuts and strengthening of embankments, have been accomplished gradually and only as the limited resources of the company would permit. On the other hand, the condition of the property is such that operating costs are comparatively heavy (Tr. 4534-4535).

All of the figures on Exhibit A-69, except the lower right hand corner of page 1, indicate the grade line on the various parts of the railroad. At this time the only difficulty is in handling tonnage between Minneapolis and Peoria and Minneapolis and Albia. From Peoria to Minneapolis, approximately 500 miles, the total ascending grades are 5,566 feet, and in the reverse direction are 5,216 feet. The maximum tonnage which can be handled with the present power is 2,200 tons per train with the aid of helper engines at four different points westward and five different points eastward. The train haul can only be increased by reducing the grade lines or increasing the capacity of the power, which [fol. 384] latter cannot be done without improving the roundhouse and shop facilities, lengthening the side tracks and strengthening the bridges and structures generally (Tr. 4535).

We have heavy snows in the winter time and high water conditions during the summer. These operating difficulties can be overcome by widening the cuts, raising and strengthening the embankments and in some places relocating the lines. The railroad is intersected by numerous highway crossings at grade, many of them being trunk highways. A few grade separations have been accomplished but only a very limited number. Regardless of our intensified effort to prevent highway crossing accidents, we have a very large number which are a constant drain on our resources and are of no benefit to the property. A further separation of grades at the highway crossings should be preceded by the necessary revisions and relocations of the railroad. (Tr. 4536).

Our shop and roundhouse facilities, while they have been improved somewhat, are not only inadequate but unduly expensive. We have no modern equipment for economical handling of heavy power, such as traveling cranes. Our shop machinery is being improved as funds are available, replacing worn out and obsolete machinery with modern up to date machines, but we still have many machines that should be replaced. Our terminal facilities, while they have been improved to some extent, are yet inadequate for the economical handling of the business. This railroad has not as yet made any installation of block signals or any other modern improvements of this nature. We are gradually replacing our old and out of date train order signals with modern, double-arm semaphores. (Tr. 4536-4537.)

[fol. 385] Our telegraph system has not been improved during the past twenty-five or thirty years. We are still using the telegraph for train dispatching, and on the line between Minneapolis and Peoria our wire facilities are inadequate for the prompt and efficient handling of trains. Between Oskaloosa, Iowa, and Peoria, Illinois, 190 cities, there are only two wires, one of which is used by the Western Union Telegraph Company. The Western Union, several years ago, served notice of their desire to sell to the railroad company the telegraph system or to dismantle it. This matter is still pending and must continue so until funds are made available for the purchase of the property, which will then have to be rehabilitated. (Tr. 4537.)

Notwithstanding this situation, however, a constant endeavor is being made to increase the efficiency of operation and reduce costs and very favorable results have been accomplished along this line. In 1924 as compared with 1923, we burned 35,000 less tons of coal with about the same amount of tonnage. This saving resulted from the improved condition of the locomotives and efficiency of the men. Over the last five years we have reduced our cost of fuel approximately 50 cents per thousand ton miles and we are constantly striving to improve that showing. In 1920, we were able to handle 962 gross tons per train. That has been improved each year until in 1924 we were able to handle 1058 gross tons per train without added power. In 1920, we spent $364,000 in freight claims and in 1924, $98,000. In 1920, we spent approximately $350,000 for personal injuries, and in 1924 reduced this to $118,000. (Tr. 4537-4538.)

[fol. 386] In the first six months of 1925, we increased our train speed from 11.7 miles per hour to 12.1; our gross tons per train from 1006 to 1048 gross tons per train; gross ton miles per train hour from 11,788 to 12,676; pounds of coal per locomotive mile was reduced from 236.5 to 234.1; pounds of coal per thousand gross ton miles was reduced from 261.8 to 241; and during the same period, our traffic density in gross ton miles per mile of road per day increased from 4564 to 4730.

These are representative of the things that we are trying to do in the matter of reducing operating expense and increasing the efficiency of the property.

While we are still concentrating our efforts to further reductions in the cost of operation and increasing our efficiency, it is quite obvious that there is a limit to what may be accomplished along this line. The outstanding difficulties in reducing the expense of operation are the unfavorable grade line and the general inadequacy of the facilities. It will not be possible to overcome this handicap until and unless funds are provided to reduce the grade lines and to increase the facilities sufficiently to permit of the economical handling of tonnage between the terminals. (Tr. 4538-4539.)

The Minneapolis and St. Louis is now, and has been, since July, 1923, operated by a receiver. The road is doing

the best it can with what it has, but any further improvement along the line I have indicated will have to come from the expenditure of additional money, and that money is not available. (Tr. 4539.)

[fol. 387] Referring to Exhibit A-69, and taking the first page as an example, the profile between Albert Lea and Oskaloosa, the figures on the left hand margin indicate the elevation above sea level. The figures immediately below the grade line of the railroad indicate the ascent and descent in feet per mile. The scale is shown in the case of each profile. The profiles do not show the grades in percentages. Those can be figured by the use of the scale and the information shown on the Exhibit. (Tr. 4539-4540.)

The grade is one inch per forty miles horizontal and 200 feet to the inch vertical. That is referring to the one at the top, in the upper left hand corner of the first sheet of Exhibit A-69. There is a little difference in each profile. They are very close and are on a very comparative basis. (Tr. 4540-4541.)

For the most part the line might be termed a rolling line, up and down. There are some compensating grades. At the five places where we use helpers service between Minneapolis and Peoria the grade is around 1.2 per cent. The use of helpers could be avoided either by the elimination of the grade line, or rather, the reduction of the grade line, or by the use of heavier power. As to the use of heavier power in this territory by other lines I can only answer from my general knowledge of the situation. The grades on the Minneapolis and St. Louis are choppy, while on the other lines they are usually condensed to some particular district. Now, most all of the lines in the northwest, I think, use helper engines at some places in their territory, but their grade lines are usually reduced to some particular territory, while on the Minneapolis & St. Louis, you will see by referring to the profiles that it is quite continuous over the whole line. (Tr. 4541-4542.)

[fol. 388] The power on our line is comparatively—considerably—less than on other lines in the same territory. If that power were increased to the tractive effort of the other lines in the same general territory, our operation would be materially bettered, but in order to do that we would have to increase the weight of our rail, our ties, our

ballast and our roundhouses and several other things to bring up the railroad to that power. (Tr. 4542-4543.)

Our mileage is 1530 miles approximately owned and 1630 operated. I do not have the figures for our mileage in South Dakota, but will obtain them. (Tr. 4543.)

I cannot give the ratio of transportation expenses to revenues last year, because I do not have it with me. It was somewhere around 40. That is one of the tests that operating men recognize as determining the efficiency of a railroad. It has quite a bearing in our territory. The increase or decrease of maintenance expenses are in the way of our control and still they are not, because we have to keep up our railroad to a certain standard. Comparing them with the transportation expenses they are to a very large extent within the control of the management, but taking the case of the Minneapolis and St. Louis Railroad, I think that because of the lack of maintenance in years gone by, that in order to keep the railroad in a safe and proper condition, we have got to spend about so much on the railroad. We cannot say that we will not spend a dollar on maintenance and that that would be within the control of the railroad. What I would consider within the control of the railroad would be to maintain it in a proper and safe condition and in order to do that on the Minneapolis & St. Louis, because of lack of funds in years gone by, it is hardly within the control of the management, as you would take a dollar and split it in two and give 50 cents to somebody and 50 cents to somebody else; I would hardly say that with regard [fol. 389] to the Minneapolis & St. Louis. The expenses for transportation are largely fixed by the rates of wages and cost of fuel and things of that kind. (Tr. 4544-4545.)

If a railroad within the course of three or four years reduces its ratio of transportation expense to revenue from 44 or 40 per cent to 30 per cent, it shows very good working indeed. I would assume of course that the latter is arrived at by the same formula. The formula is fixed by the Interstate Commerce Commission and the carriers have nothing to do with that (Tr. 4545-4546).

Here the following colloquy occurred:

Mr. Towner: I might say for your benefit, Mr. Roberts, that if you would look at those exhibits of Mr. Parsons you

would find all of those figures you have been asking the witness for, for all of the railroads.

Mr. Roberts: I merely wanted to get an admission from an operating man that that was one of the best tests to determine the efficiency of a railroad.

The Witness: I answered your question by saying yes (Tr. 4546).

The Witness (continuing): The mileage of the Minneapolis and St. Louis in South Dakota is approximately 270.43 miles. The western terminus of the road is Akaska, South Dakota, on one line and Leola on the other line. On the left hand chart on page three of Exhibit A-69 is shown a maximum grade west bound of about half of one per cent. From Leola to Watertown the grades are shown in the upper right hand chart. In that territory from Conde to the top of the hill is a grade of 53 feet to the mile, a little better than one per cent. That is eastbound. From Morton to Watertown is a westbound grade of about one per cent, [fol. 390] a little better than one per cent. We have many grades on the balance of our line comparable with those. Between St. Paul and Morton we find 64 feet per mile. This is for a distance of about five miles. Right out of Peoria is a grade a little better than two per cent. That is about three miles long. Then you keep on going west till you get over from London Mills. From London Mills to near Abingdon is 53 again and you can follow that thing all the way. Those are not comparatively short distances (4549). The last grade mentioned is for a distance of about six or seven miles. I said that the Minneapolis and St. Louis had choppy grades, but that does not necessarily mean for short distances. The grade line all the way through is up and down, irregular (Tr. 4546-4547-4548-4549).

Our railroad has been in receivership before, or so I am told. I do not know that of my own personal knowledge. The traffic density in South Dakota is considerably less than on the balance of our line (Tr. 4550).

It costs more per unit to operate in South Dakota than on the balance of our line, because of the density of traffic out there and the necessity for operating certain forces. The density of traffic does materially affect our operating cost. The investment is not nearly as much in South Dakota, though, (Tr. 4550-4551).

Referring to the grade just out of Peoria which is better than two per cent for about two miles on the profile in the Exhibit the up and down is not shown at all. The grades are merely the maximum grades in the district, but that piece of track from Peoria to the top of the hill is right up all the way. It is not all two per cent, but it is a very heavy grade all the way up there (Tr. 4551).

[fol. 391] WILLIAM ATWILL was thereupon called as a witness and testified as follows:

Direct examination:

I am general superintendent of the northern lines of the Illinois Central, and located at Chicago. I have been employed by the Illinois Central for twenty-five years in the operating department, as follows: Train dispatcher, chief train dispatcher, train master, division superintendent and general superintendent. The Illinois Central Railroad Company has been doing everything possible to bring about decreased operation, as will be seen by the figures following:

We have increased the average tractive force per engine from 21,597 in 1903 to 39,168 in 1924, an increase of 81.4 per cent. We have increased our gross train load on the system from 705 tons in 1902 to 1722 tons in 1924, an increase of 144.2 per cent, and have increased the gross tons per train in the direction of heavy traffic from 791 tons in 1902 to 1,963 tons in 1924, or 148.2 per cent, and have increased our net tons per train from 219 tons in 1900 to 673 tons in 1924, an increase of 207.3 per cent. Since 1915 we have expended $3,461,233.28 in improvements to locomotives designed to increase the train load and reduce fuel consumption by applying super-heaters, valve gears, thermic syphons, etc., and in the last four years have purchased and put into operation a large number of modern and large size locomotives (Tr. 4552-4553).

Our company has also been active in reducing operating costs in the reduction of claims. Freight claims for the year 1924 decreased 48.1 per cent over the year 1920. Reduction of claim payments to revenue in 1924 was .94 per cent compared with 1.90 per cent in 1920, and for nine

[fol. 392] months of 1925, .86 per cent. Exception reports decreased 73 per cent in 1924 compared with 1920. Station operation expense decreased 31.5 per cent in 1924 compared with 1920. Claims and loss payment decrease- 85 per cent — 1924 compared with 1920. Locomotive maintenance for the past four years is shown below: Nine months 1925 cost per mile 22.51 cents and per locomotive owned $4,782. Nine months 1924 cost per mile 24.96 cents and per locomotive owned $5,287.61. For the year 1924, cost per mile 24.63 cents and per locomotive owned $7,102.28. For the year 1923, cost per mile 26.53 cents, per locomotive owned, $8,605.22. For the year 1922, cost per mile 23.60 cents, and per locomotive owned $5,629. This was the strike period. For the year 1921, cost per mile 27.88 cents, and per locomotive owned $7,629.36. For the year 1920, cost per mile 26.01 cents and per locomotive owned $8,101.12. Repairs to freight train cars per car mile as follows: 1924, $0.01074; 1923, $0.01231; 1922, $0.01286; 1921, $0.01676; 1920, $0.02011. Repairs to passenger train cars per mile as follows: 1924, $0.02393; 1923, $0.02437; 1922, $0.02026; 1921, $0.02477; 1920, $0.02692. Following fuel consumption for 1,000 gross ton miles: 1924, 155 pounds; 1923, 166 pounds; 1922, 164 pounds. Out operating and non-operating expenses for the years 1921 to 1924, showing the cost to handle one gross ton one mile as follows: 1921, $0.00369; 1922, $0.00334; 1923, $0.00327; 1924, $0.00320. Our cost to handle one net ton one mile is shown below: 1921, $0.00822; 1922, $0,00730; 1923, $0.00719; 1924, $0.00737 (Tr. 4553-4554-4555).

Exhibit A-70 consists of profiles in booklet form covering the line of the Illinois Central between Council Bluffs and Chicago (Tr. 4555).

(Exhibit A-70 was received in evidence.)

[fol. 393] On this district between Tara and Waterloo, 106 miles, the line was constructed in the early days when the density of traffic did not warrant investment necessary to avoid excessive grades and curvature. While some progress has been made toward reducing grades and eliminating curvature on the east end of this section no substantial improvement has been made and the train load is still restricted by pusher grades in each direction from Fort

Dodge, ranging from ¾ to 1½ per cent with curvature of from 1½ to 5 degrees, also one per cent grades between the pusher grade and where the grades were improved from ten to fifteen miles west of Waterloo.

Between Waterloo and Freeport, 162 miles, the line was also constructed in accordance with early day practice and as yet no improvement has been made in grades and curvature. On this section the grades are more or less continuous and range from 1 to 1½ per cent with excessive curvature running as high as 11 degrees.

Between Freeport and Chicago, 114 miles, the line was constructed in accordance with more modern practice with maximum grades of .5 per cent and curvature up to 4 degrees. On the Chicago terminal end of this section we have made substantial capital expenditures for such roadway items as track elevation and depression, including the elevation of Hawthorne yard, separation of grades, etc., all of which may be classed as unproductive improvements (Tr. 4556).

Between Council Bluffs and Hawthorne,—Chicago outer yard,—we have a raise in grade of 4,581 feet eastward and 4,971 westward, and 9,343 degrees of curvature, equal to describing 26 complete circles. A degree of curvature [fol. 394] equals 2.1 feet grade per mile. From 1900 to 1924 capital expenditures on the line between Chicago and Council Bluffs amounted to some $13,750,000. With the exception of a short piece of grade reduction work on the east end of the Tara-Waterloo section. 10 to 15 miles west of Waterloo, costing $545,866,—this expenditure was mostly for unproductive improvements on the Chicago end, together with separation and protection of grade crossings, interlooking plants, block signals, and other safety measures, pretty well distributed over this part of the line. For the past two years we have been carrying on extensive improvements on our Chicago terminal in which our western lines participate. The program involving the expenditure of some $86,772,000 not including passenger station facilities estimated to cost between $21.000,000 and $22,000,000 depending on size and use to be made of such station facilities, which improvements will be completed about 1934. The expense of maintenance on our western lines exceeds the average. On the 131 mile section between Council

Bluffs and Tara, we have, since its construction encountered excessive maintenance costs for slides and protection of embankment, including extensive Missouri River protection at Council Bluffs (Tr. 4557-4558).

On the 105 mile section between Tara and Waterloo, while the train service costs are excessively high, the maintenance of way expense is more nearly normal. On the 162 mile section between Waterloo and Freeport, the expense of maintenance is excessively high. On the 50 miles between Posta, west of Dubuque, and Soales Mound, east of Dubuque, 12.6 miles of which is double track, because of the excessive curvature and grades, the expense of renewing rail, frogs, switches, ties, and other track material is three times the average. Within this territory the road crosses two streams 29 times, also crosses the Mississippi River, [fol. 395] over which we have a drawbridge at Dubuque, and another drawbridge over the Galena River at Galena, Illinois. Such items of expense as ditching and embanking, removal of grass, weeds, etc., are excessively high because of the necessity of performing the work by hand. There is a corresponding increase for labor. In addition to the excessive cost for maintenance of way, because of the excessive grades and curvatures, our expense for maintenance of locomotives is substantially above the average. It is necessary to treat locomotive boiler water on the entire territory between Council Bluffs and Chicago (Tr. 4558).

Exhibit A-71 is a condensed profile in booklet form showing the grade line and curvature of our line between East St. Louis and Chicago (Tr. 4559).

(Exhibit A-71 was received in evidence.)

[fol. 396] We have our own line into St. Louis. We run our trains into St. Louis over the tracks of another railroad of which we are a part owner (Tr. 4559).

The ruling grades with proper allowances for uncompensated curvature, expressed in feet per mile on this territory, are as follows: In direction of light traffic southward: Chicago to Gilman, 81 miles, 26 feet per mile. Gilman to Clinton, 67 miles, 54 feet per mile. Clinton to East St. Louis, 142 miles, 40 feet per mile. In direction of heavy traffic, northward: East St. Louis to Springfield, 97 miles, 46 feet per mile, for a distance of 3½ miles. Springfield to

Clinton, 45 miles, 26 feet per mile. Clinton to Gilman, 67 miles, 21 feet per mile. Gilman to Chicago, 81 miles, 16 feet per mile. East St. Louis to Chicago we have a raise in grade of 1,795 feet and fall of 1,674 feet northward and a total of 1,893 degrees curvature equal to describing 5.26 circles. Chicago to East St. Louis we have a raise in grade of 1,674 feet and fall of 1,795 feet southward, and a total of 1,888 degrees curvature equal to describing 5.24 circles (Tr. 4559-4560).

Our principal capital expenditures made on this line to reduce cost of operation since 1900 are as follows: Grade reductions, $1,061,590.12. Second and third main tracks, $1,594,390.65. New Yard at East St. Louis, Springfield to Clinton, $2,104,063.96. Block signals, $756,823.38. Double track signals, Otto to Gilman, $425,582.03. The approximate expenditures in the Chicago terminal improvement plan in which this East St. Louis-Chicago line also participates has already been stated (Tr. 4560).

During the month of September, 1925, a favorable operating month, dispatch freight trains handled East St. Louis [fol. 397] to Chicago, in the direction of heavy traffic, an average of 2,324 gross tons or 53.8 per cent of the locomotive rating. In the direction of light traffic Chicago to East St. Louis 1,650 tons, or 47.2 per cent of locomotive rating (Tr. 4560-4561).

Exhibit A-72 is a condensed profile in booklet form, showing the grade line and curvature between Clinton and Wallace Yards, Freeport (Tr. 4561).

(Exhibit A-72 was received in evidence.)

[fol. 398] We operate our trains from Clinton to Amboy, a distance of 115 miles, as a sub-terminal, and operate turnarounds between Wallace Yards, Freeport, and Amboy, a distance of 49 miles. We have some very unfavorable grades to contend with, as follows: In direction of light traffic, Freeport to Clinton, with a proper allowance for uncompensated curvature expressed in feet per mile, the ruling grades are as follows: Wallace Yard to Clinton, 164 miles, maximum grade 52 feet. Clinton to Mendota, 98 miles, maximum grade 42 feet at Normal with a helper over a 4½ mile grade at LaSalle, 52 foot grade. Mendota to

Amboy, 16 miles, maximum grade 43 feet. Dixon to Woosong, 50 miles, maximum grade 43 feet. Clinton to Wallace Yards, Freeport, we have a raise in grade of 1,793 feet and a fall of 1,728 feet northward, and a total of 1,384 degrees curvature equal to describing 3.85 circles. Wallace Yards, Freeport to Clinton, we have a raise in grade of 1,726 feet and a fall of 1,793 feet and a total of 1,384 degrees curvature equal to describing 3.85 circles (Tr. 4561-4562).

Our gross train load, in direction of heavy traffic on this line, Clinton to Wallace Yards, Freeport, for the year 1924, was 2,418 tons or 71.3 per cent of locomotive rating but few dispatch trains are run on this district. Following are the principal items of expenditures for various facilities on the Amboy district, Clinton to Wallace Yards, Freeport, from the year 1900 to date: Grade reduction, none. Passing tracks, $302,420. Second main tracks, $472,368. Yew Yard tracks, $355,136. Block signals and interlockers, $55,086. Miscellaneous, detailed below, $1,911,898. Total, $3,086,708. Miscellaneous expenditures: Freight house facilities, $233,-149. Water tanks, treating plants, etc., $291,288. Sidings, [fol. 399] crossover "Y" tracks, etc., $25,668. Mechanical facilities, $1,081,886. Telegraph and telephone lines, $19,-576. Roadway buildings, $41,677. Subways, crossings, etc., $187,322. Coaling stations, $31,332. Total, $1,911,898 (Tr. 4562-4563).

The Illinois Central has a line which extends due south through the Mississippi Valley to New Orleans and in addition to that other lines which lie in the territory roughly described as being north of St. Louis and west of Chicago. Our heavy traffic line is that to New Orleans. That is much heavier than what I described as being our western line—very much so. The western line is the line to Omaha, from Chicago to Omaha. The southern lines to New Orleans are also much heavier traffic lines than this old main line of the Freeport. When I speak of the increased cost of maintenance and operation over our western lines I refer to the relation between the cost of maintaining and operating that line and the cost of maintaining the balance of the Illinois Central system lines. I believe that at the present time the Illinois Central is being operated as economically and as efficiently as possible. (Tr. 4563-4564.)

The improvements in Chicago to which I have referred, such as elevation of tracks, I consider unproductive. We do not figure that there is any return to speak of from that investment. We do not think that it would interfere greatly if all of our tracks were operated at grade. If they were we could manage to get along. There would be some interference, but not any considerable interference. Naturally we would take a greater chance of accidents. It is difficult to say to what extent. I think that if we were running over the streets in Chicago the interference would be with the traffic on the highways mostly. It does cost something sometimes by way of accidents. Of course we would have [fol. 400] to pay for putting up gates and paying the salaries of the watchmen, but it is a great expense to elevate these tracks. The interest on the money would pay for a whole lot of crossing flagmen. We recognize that separation of grades is coming in the big cities and that is why we have been doing it for years. The fact still remains that those larger expenditures are not always productive. I think that as a dollars and cents proposition we could operate in Chicago at grade for less money than it requires in this expenditure for elevation. (Tr. 4564-4565-4566-4567-4568.)

The profiles which I introduced show our line from Chicago to Omaha, Freeport to Clinton, Illinois, and Chicago to East St. Louis. (Tr. 4568.)

The following is quoted verbatim from the transcript of the testimony:

Q. You handle a great volume of this traffic that is involved in this case of your main line from New Orleans to Chicago, the profiles of which are not shown?

A. Yes.

Q. That would be in Illinois from——

A. We handle the business south of Gilman, Illinois, a large volume of it——

Q. Sir?

A. (Continuing) —a large volume of business south of Gilman, Illinois, that we have on the profile here, that shows that territory, if that is what you mean.

Q. But a great part of that business is handled over those lines south of Gilman?

A. We do handle a big business south of Gilman, yes. (Tr. 4568-4569.)

[fol. 401] We think we have a pretty good railroad. That particular piece of the Illinois Central south of Gilman is a good railroad. We would not call the line from St. Louis to Chicago a low grade line. We have some grades between Chicago and East St. Louis that are not low. They are steep grades. They are somewhat continuous all the way from Gilman to East St. Louis. We have some grades nearer East St. Louis that are steeper than five-tenths of one per cent. Those are short, it is true, but they affect the train load. We have steeper grades in the line from Chicago to Council Bluffs than in the line from Chicago to East St. Louis. I have no idea as to the volume of traffic interchanged with the southwestern lines involved in this case that is handled over the line from Chicago to Council Bluffs. (Tr. 4569-4570.)

By Mr. Outlaw:

Q. An exhibit formerly introduced in this case shows that 43 cars out of 3,000 cars interchanged with southwestern lines were handled over that line between Chicago and Omaha. That in a very small proportion of the traffic, is it not?

Mr. Towner: Yes, I will agree with you on that.

By Mr. Outlaw:

Q. That exhibit I referred to is A-42 (Tr. 4570).

The witness (continuing) —In the line near East St. Louis we have some grades 40 feet to the mile for about six miles. The grade starts in with a smaller ascent per mile and keeps on increasing until it reaches 40. Forty is near the summit and that is what governs. We do not use helper service because we figure that would be more expensive than it is to decrease the train load and take over the hill what one engine can haul (Tr. 4570-4571).

At certain seasons of the year one of our commodities from Council Bluffs east is grain traffic. There is some of that which goes export, moves to Freeport and south from Freeport to Clinton. It does not come to Chicago and then [fol. 402] go south. Sometimes we do not haul it to New Orleans. Sometimes the barge line gets it (Tr. 4571-4572).

Redirect examination;

We operate 482 suburban trains on our Chicago lines. On our south Chicago branch we handle about 240 of these trains per day. That is high speed operation and all at grade. One of the principal improvements which we are making at Chicago is the electrification of our present terminals, but there are a lot of other things go along with it, such as elevation depression. Electrification of the new station as required by the city of Chicago will require a large amount of the eighty million dollars I referred to—the major part of it. We do not think we will get that additional return from that investment. We have to raise the money to do this. The money has to be borrowed and interest has to be paid on it. That is one of the penalties of doing business in a big city like Chicago (Tr. 4572-4573-4574).

W. H. PENRITH was thereupon called as a witness and testified further as follows:

My name is W. H. Penrith and I am general superintendent of the Chicago & Alton Railroad. I have now been with the road for nearly twelve years and have been general superintendent for nearly six years. I am entirely familiar with the operation of the Chicago & Alton Railroad.

The Alton Railroad between Kansas City and Chicago, a distance of 485.2 miles, has 251 miles of single track between Kansas City and Roodhouse and 110.6 miles between Roodhouse and Bloomington via the Jacksonville Line. The line Bloomington to Chicago is double tracked.

The line between Kansas City and Roodhouse is an ex-
[fol. 403] pensive and difficult piece of road to operate and when constructed very little attention was paid to the avoidance of curves and the elimination of grades. It is a series of curves and grades with a 1 per cent maximum grade line. The total curvature on this line is 7067 degrees, or the equivalent of 19.6 complete circles. Eastbound from Kansas City the total of the upgrades equals a rise of 3490 feet and westbound from Roodhouse there is a total rise of 3593 feet. The grades are so frequent that it is not practicable to increase the train load by means of helper service and in order to handle a train of fifty loads, it is necessary to use

two large Mikado type engines. If the rise was more continuous the cost of operation could be somewhat lessened for the reason that helper engines could be maintained and considerable engine mileage saved as instead of running the additional engine from the top of one hill to the foot of the next hill the additional engine mileage would be utilized only where needed (Tr. 4574-4575).

Prior to December, 1924, under our schedule with the trainmen we were not allowed to double head trains without paying a penalty of double compensation to the train crew. During the month of December, 1924, in conference with the trainmen, our agreement was changed so that now we double head all of the way between Kansas City and Roodhouse. Prior to the inauguration of the double heading our maximum train load was 30 to 31 cars. The only way the Alton can get the maximum, or anywhere near the maximum of train load is a double head between Kansas City and Roodhouse. Between Roodhouse and Bloomington, via the Jacksonville Line, the curvature is 1042 degrees and the upgrade in one direction is 1015 feet and in the other 889 feet. The total curvature between Bloomington, Illinois, and Kansas City, Missouri, via the Jacksonville line [fol. 404] and Roodhouse, being 8,109 degrees and the total upgrade eastbound between Kansas City and Bloomington is 4505 feet and westbound 4482 feet. The line between Chicago and East St. Louis, Illinois, a distance of 280.8 miles, is double tracked, with the exception of about nine miles between Rinaker and Plainview, which is a single track. The total curvature on this line is 2171 degrees and the upgrade southbound equals a rise of 1519 feet and northbound of 1691 feet. On this line we have three bad grades, which makes it necessary to maintain helper engines at Wann, Illinois, Rinaker, Illinois, and Lawndale, Illinois, in order to handle up these grades the maximum train load that can be handled with one engine over the balance of the railroad. If these bad grades could be eliminated and the railroad between Rinaker and Plainview double tracked, the cost of operation would be considerably decreased, but the funds for doing this work are not available (Tr. 4575-4576-4577).

The Chicago & Alton Railroad, particularly between Chicago and East St. Louis, operates through densely populated communities, which means heavy expense in the way

of maintaining street crossings through the many towns and cities, also crossing flagmen, crossing gates, mechanical warning signals, etc. We have on the railroad over 3,000 switches and turnouts to maintain and we have 41 interlocking plants, operated exclusively by the railroad company; this means heavy maintenance expense.

During the past ten years the Alton Railroad, between Kansas City and Chicago and between East St. Louis and Chicago, has been reballasted with stone and gravel; 90 and 100 pound rail has been substituted for 80 pound rail, bridges have been strengtened, passing tracks lengthened to accom-odate the longer trains made possible by improved roadbed and track, heavier locomotives have been [fol. 405] purchased, but because of the very heavy expense involved in reducing grade lines very little of this latter work has been accomplished. Between Kansas City and Roodhouse there are three large steel bridges, one over the Missouri River at Glasgow, one over the Mississippi River at Louisiana and one over the Illinois River at Pearl, these bridges total 5,658 feet in length and consist of 8,108 tons of steel. The expense of maintenance of these bridges is considerable (Tr. 4577).

During the year of 1924 approximately $200,000 was spent in an effort to keep the Missouri River within its banks and from cutting across country making a new channel which would have made the present bridge over the Missouri River at Glasgow useless, for if the company had not been successful in stopping the river from changing its channel this bridge would have been left out on an island and the river diverted from it. This is a condition that will always confront us as during the past thirty years large sums of money have been spent in keeping the river from cutting the railroad in two at this point.

From 1910 to 1925 the average tractive power of our locomotives has been increased from 29,718 pounds in 1910 to 35,998 pounds in 1925, or approximately 21 per cent. We have for a number of years been conducting active campaigns in the conservation of fuel, reducing the hazards of accidents and reduction in all classes of claims. During the part ten years we have reduced our fuel consumption from 234 pounds to 163 pounds per thousand gross ton miles

handled. This has been accomplished through improved methods, such as super-heating locomotives, applying automatic fire doors, installing brich arches, modern methods of water treatment, etc.

[fol. 406] During the past fifteen years we have reduced the ratio of our freight claim damage to freight revenue from 1.31 per cent in 1909 to .43 per cent in 1924. Through the purchase of larger locomotives and the reduction of grades during the past ten years we have increased our train load approximately 20 per cent. We have spent on improvements in roadway and equipment during the past ten years $22,817,437.47, or an average of $2,281,743 per year. On the Alton Railroad every effort is being made constantly to produce operating economy and efficiency and we have gotten to the point where any further steps in the direction of economy and efficiency must come as the result of extensive capital expenditures. The Alton is now being operated by receivers and has been since August, 1922, and no money is now available for the purpose of making such capital expenditures (Tr. 4578-4579).

Attorney Towner thereupon offered in evidence the said profiles of the Chicago and Alton as Exhibit No. A-73 (Tr. 4579).

(Exhibit A-73 was received in evidence.)

[fol. 407] The profiles, Exhibit A-73, cover all of the lines of the Alton Railroad. The first page shows the main line from Chicago to Bloomington. The figures on the left hand margin are the elevation. The figures above and below the grade line of the railroad are the rise and fall in feet per mile. The figures across the bottom are the mileages. You will notice the scale. I do not show the grades in percentages. Those can be computed from the information that is shown on the profile. That is true of all the profiles included in the Exhibit (Tr. 4579-4580).

Cross-examination:

The line of the Alton between Chicago and St. Louis is a very much better line than the line between Roodhouse and Kansas City so far as grades and curvature is concerned. With the exception of some one or more sharp

grades the Chicago-St. Louis line is for the most part a little better than .5 of one per cent. That is a very good grade line. The expenditures for improvements that I have testified about have nearly all been made over the entire line. The line between Chicago and St. Louis has been favored as to the reduction of grades but not to maintenance of roadbed and track. I do not believe that I testified that we had such a good railroad in one case and a bad railroad in the other case. The line between Chicago and St. Louis is an easier operating railroad than the line from Roodhouse west due to the fact that it has less curvature and less grade. We have not spent more money per mile of track on the Chicago-St. Louis line for the reason that practically an equal amount of money has been spent on the entire railroad in substituting gravel and stone ballasts for cinders and heavy rail for light rail. We have a great deal better operating line between Chicago and St. Louis so far as the grades and curvatures are concerned. The line from Chicago to St. Louis is double tracked with the except-
[fol. 408] tion of nine miles. Double track aids greatly in the operation of our railroad, makes it superior operation (Tr. 4581-4582-4583).

Referring to Exhibit A-73, the figures on the top of the grade line and the bottom of the grade line show the rise and fall in feet. The figures both on the top and bottom of the page refer to elevation above sea level in actual feet (Tr. 4583).

Here Attorney Towner upon request by Attorney Roberts agreed to furnish any additional specific information with reference to matters dealt with on the profile which would require computing the ruling grade and so forth, this information to be supplied to an engineer who would be sent to the Western trunk lines by Mr. Roberts (Tr. 4584-4585).

O. N. HARSTAD was thereupon called as a witness and testified as follows:

Direct examination:

I am general manager of the Chicago, Milwaukee & St. Paul Railroad. I have been in the operating department

of that railroad for 25 years and have jurisdiction at the present time over the lines east, that is, the territory this side of Mobridge, South Dakota (Tr. 4586).

Covering a period of 1905 to 1924, inclusive, the Chicago, Milwaukee & St. Paul have spent in grade revisions, double track, separation of highway crossings, automatic signals, interlocking plants, about $24,300,000, in the territory between Council Bluffs and the outer yards, Bensenville, at Chicago. Approximately $23,400,000 of that amount was spent in crossing the state of Iowa, resulting in the better grade lines as shown on our profile. We have, as I believe other railroads have, accomplished many things to bring down the cost of operating our railroad. In 1920 all [fol. 409] of the railroads were obliged to pay their train, engine and yardmen time and a half after eight hours. We have succeeded in reducing our train overtime approximately 16 per cent and our yard overtime approximately 50 per cent in that period.

We have, as others have, put on a campaign to reduce the amount of coal consumed per thousand gross ton miles, and in the past four years that has been reduced 8.5 per cent, resulting in the comparison with 1923 and 1924 of saving of $415,500 because of the leaser fuel consumed per thousand gross ton miles. We have a campaign to bring about better efficiencies in our locomotive performance. In 1914, using the same basis for engine failures as is in effect now, we had 4,594 engine failures. Our mileage between failures was 12,245 miles. In 1918 we had 7,506 engine failures. Our mileage between failures had been reduced to 7,000. In 1924 our engine failures had been reduced to 858 and the mileage between failures had been increased to 60,500 miles.

We have, as others are doing, campaigned to lessen the number of derailments on our railroad from all causes. In 1918 we had 424 derailments. The miles per accident was 56,269. In 1924 we had 285 accidents. The miles per accident had increased 101,184 miles. We feel that the campaign to bring about a better condition of locomotives is reflected in the statement that in 1918 we owned 1,989 locomotives. 372 of them or 13.7 per cent were unserviceable. In 1924 we owned 2,194 locomotives; 121 of them were unserviceable or 5.5 per cent. That is further reflected by the power conditions. In 1920 7½ per cent of our power was waiting shops. In 1924 1.8 per cent was waiting shops.

A campaign to reduce engine hour expenses has resulted in this comparison: In 1920 our total engine house charges [fol. 410] were $6,380,000. The cost per locomotive mile was 11.2 cents. In 1924, $3,981,900. The cost per locomotive mile was 7.7 cents. One other comparison, of engines ordered out of service by government inspection: In 1918, 96 engines or 5.09 per cent were ordered out of service because of defects discovered by government inspectors. In 1924, nine engines, .42 per cent, were ordered out of service. In 1919, 1,588 engines were inspected; in 1924, 1,721.

We have succeeded in building up our train load. This statement deals in net tons which were available from the annual reports. In 1901 we handled 262 net tons per train. In 1914, 454. In 1924, 680. The cost of handling coal delivered to locomotives has been reduced. In 1918 it cost us 16.4 cents per ton to deliver coal to the locomotives. In 1924, 13.23 cents per ton. The figures include labor and power costs.

Our personal injury campaign is a very important one on the railroad, as on other railroads. Our figures show that in 1918 we killed 190 and injured 5,216. In 1923—the figures were not complete for 1924—the killed were 176; the injuries were 3,813. That statement includes employes and others, as reported to the Commission. We have had a good many increases in pay to those employed in handling less than carload freight. Notwithstanding the increases in wages, our cost to handle a ton of freight, l. c. l. freight in the freight houses in 1918 was 56.31 cents; in 1924 it was 47.89.

Our loss and damage campaign has resulted in a very material reduction. In 1917 our gross freight revenue was $79,957,000. There was paid in claims that year $1,552,300; a ratio of 1.94. In 1918 gross revenue was $106,018,000. Freight claims $3,354,000. Ratio 3.16. In 1924 the gross was $123,152,300. Freight claims paid $1,180,995. Ratio, .95 per cent (Tr. 4586-4587-4588-4589-4590).

[fol. 411] The Milwaukee has very extensive terminals in Chicago. It has made capital expenditures in the last few years of approximately $10,000,000 as the result of track elevation and things of that sort. Those track elevations are required under ordinances of the city (Tr. 4590).

I am generally familiar with the operation over the entire lines east of the Milwaukee. My experience has been confined to the lines east. They are being operated as economically and efficiently as we know how to do it. The Milwaukee is now being operated by receivers. It has been for the last six or eight months—since March 1925—March 1, I think. Any further improvements along the line of economy and efficiency of operation would have to come as a result of capital expenditure and the money is not available now. I have prepared profiles of the principal lines of the Milwaukee Railroad in my territory (Tr. 4590-4591).

Attorney Towner thereupon offered as Exhibit A-74 the profiles of the Milwaukee line from Chicago to Minnesota Transfer (Tr. 4591).

(Exhibit A-74 was received in evidence.)

[fol. 412] Attorney Towner next offered in evidence the profile of the Chicago, Milwaukee & St. Paul Railroad from Chicago to Kansas City (Tr. 4592).

(Said profile was received in evidence and marked Exhibit A-75).

Attorney Towner thereupon offered in evidence the profile of the Chicago, Milwaukee & St. Paul Railroad from Chicago to Omaha (Tr. 4592).

(Said profile was received in evidence and marked Exhibit A-76.)

[fol. 413] The lines covered by the profiles which I have introduced are the main lines of the Milwaukee in this particular territory. I have not undertaken to show any branch lines. The main lines are shown in the three exhibits. (Tr. 4592.)

Referring to Exhibit A-74, showing the line from Chicago to Minneosta Transfer, I have shown the elevation of the line above sea level in feet and the mileage at the bottom. I have not shown the grades either in feet or percentages. They are shown only as indicated on the print. There is no reference as to the exact grade on the condensed profile. I have shown on the profile the scale and from the scale and other information given the particular grade percentages can be ascertained (Tr. 4593).

Cross-examination:

Of the $10,000,000 which I referred to as being spent in Chicago, about $7,000,000 of it, as I recall the figures, was devoted to track elevation and the balance to our Bensenville Yard and signals and one thing and another. No part of that money was expended as the St. Paul's interest in the new Chicago Union Station. A very considerable part of the elevated structures was used by the passenger trains (Tr. 4593-4594).

I cannot tell you anything about the territory west of the Missouri River. I know that the St. Paul runs through the states of Montana, North Dakota, South Dakota and Washington and has considerable mileage there. I know that the traffic density in those states as compared with the states of Illinois, Iowa, and Wisconsin is very much less. I should say that our cost of operation per unit was more out there than here. I should say it was considerably more. I would not want to indicate the exact figure. I would say that the cost of construction and maintenance of some parts of those lines out there is more expensive than in this territory (Tr. 4594-4595).

[fol. 414] Q. Would you say on an average it was greater per mile of line?

Mr. Towner: Do you know anything about it?

The Witness: I don't know what their costs are out there. I would just have to assume an answer.

By Mr. Muckley:

Q. What is your opinion? You are an operating official.

Mr. Towner: I don't think you ought to require this witness to guess on it. He says he knows nothing about the operation out there (Tr. 4594).

Here followed a discussion as to the propriety of the witness giving an opinion in regard to this matter. The witness finally said that he did not know anything about conditions on the lines west (Tr. 4595-4596).

I do not know about the construction costs. It is a mountainous territory out there. I would say that it usually costs more to construct a line in mountainous territory than

in comparatively level territory. I would say that it would cost more for construction and maintenance in that territory than in this territory, that is, through the mountainous territory. I would say that that is true both as to construction and maintenance cost, and also operation (Tr. 4596-4597).

The payment of loss and damage claims in 1918 amounted to $3,354,000. I do not have the figures for 1923. In 1924 the figures were $1,180,995. I assume that we did about 20 per cent more of gross business in 1924 than we did in 1918. The difference, I would say, was all due to the efficiency with which the men operated in 1924 as compared with the war time of 1918. In 1918 the loss and damage claims were 2.44 per cent; 1919, 3.16 per cent; 1921, 3.19 per cent; 1922, 1.07 per cent; 1923, 1.16 per cent; and in 1924, .95 per cent (Tr. 4597-4598-4599).

[fol. 415] B. F. Parsons was recalled as a witness and testified further as follows:

Direct examination:

Mr. Towner: We have another statement here that I will ask to have marked Exhibit No. 77 (Tr. 4599).

(The document was thereupon received as Exhibit A-77.)

[fol. 416] The Witness: We have prepared a table showing the distances from the principal points in western trunk line territory to East St. Louis and Kansas City and from those gateways to most of the points in the *w*outhwestern states. These distances are shown by the direct tariff routes, only the one distance being shown from and to each point. This table introduced as Exhibit A-77 shows on pages 3 to 10 inclusive the distances from the points in western trunk line territory to East St. Louis and Kansas City. These points have been grouped in accordance with the items of southwestern lines' division sheet 40, and in some cases the averages are shown. On pages 11 and 12 appear the distances from East St. Louis and Kansas City to points in Arkansas, Louisiana, the southern part of Mis-

souri and Oklahoma. On pages 13, 14, and 15 are the distances from East St. Louis to all points in Texas common point territory having a population of 1,000 or more, and on pages 16, 17, and 18 are similar distances from Kansas City (Tr. 4600).

In showing the distances to points in Texas as on pages 13 and 16, we have shown separately those points in what we have described as northeastern Texas. That is, the points on north and east of the line described in the footnote on the two pages; and on pages 14 and 15, and 17 and 18, the distances to the remaining points in Texas common point territory south of that line. Also we show the averages in the footnotes on pages 13 and 16 to Texas common point territory as a whole. Texas common point territory includes northeast Texas. The distances are not the shortest possible routes. To illustrate that, going from Kansas City to Fort Worth we used the M. K. & T. rather than the M. K. & T. to Denison and H. & T. C., which would have made a little shorter mileage. I tried to use a reasonable [fol. 417] short line route over which the traffic would ordinarily move (Tr. 4600 to 4601).

On pages 14, 15 and 16 we use all towns of 1,000 population or more according to the 1920 census. There are no points in differential territory included in the statement. The statement which I have made does not apply to the towns in Arkansas, Louisiana, Missouri or Oklahoma. There we merely selected those towns which were used in the other exhibits. Those states did not lend themselves to groups in the same way as the Texas territory is grouped (Tr. 4601-4602).

Let me explain it this way. On page 13 I show the distance from East St. Louis to points in northeastern Texas and the average to the 85 points in northeastern Texas is 691 miles. On page 15 the average to the remaining points in Texas common point territory of which there are 196, is 852. The average to the total 281 points in Texas common point territory is 803 miles, on page 13. The same explanation will go as to Kansas City (Tr. 4602).

In practically all cases the distances were taken from the distance tables published and filed with the Commission, with a few exceptions where we had to go to the Official Guide, but in 99 per cent of the cases I think they were

official distance table mileages. The distance from East St. Louis is whatever the distance table shows. We took the distance from East St. Louis as published. I did not personally compute the mileages from East St. Louis. It may be that the average of three miles between East St. Louis and St. Louis was taken where the distance tables themselves do not show the mileages. Many of the distance tables show the mileage from St. Louis to the southwest and there we used the published figures (Tr. 4603).

In June, 1924, the tons of revenue freight carried by the Chicago & North Western Railway amounted to 4,856,651 (Tr. 4603).

[fol. 418] The western trunk lines have settled their differences on Oklahoma business with the Santa Fe, Rock Island and the Missouri Pacific, via Kansas City. That applies to all traffic. The increase to the western trunk lines, which was 14 per cent, applies on the merchandise percentages published in W. T. L. division sheet 315-A, included in one of the exhibits heretofore introduced. The divisions on oil remained unchanged. On Exhibit A-60 and other exhibits the revenues of the western trunk lines and the southwestern lines on June, 1924 traffic are shown, but the Exhibit does not show the present conditions. It shows the divisons as made on that traffic at the time the accounts were settled. Since July 1st the western trunk lines are getting more revenue than is shown on the Exhibit when the traffic moves through Kansas City. I understand no change was made through East St. Louis (Tr. 4604-4605).

Here the witness was asked by Attorney Muckley whether on the traffic interchanged between the southwestern lines and the Chicago and North Western, for example at Council Bluffs, the ton miles of the line from Kansas City to Council Bluffs would be charged against the southwestern lines. The witness was nct certain as to this and Attorney Towner said that if the record did not show the information called for he would find out and report it (Tr. 4605-4606-4607).

Attorney Muckley thereupon requested that the western trunk lines be required to furnish a statement showing for June, 1924, the revenue that would have received under the present divisions on Oklahoma business—that is the 14 per

CLERK'S COPY.

Vol. II

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, [redacted] 1930

No. [redacted] 44

THE BEAUMONT, SOUR LAKE & WESTERN RAILWAY COMPANY, THE FORT WORTH AND DENVER CITY RAILWAY COMPANY, ET AL., APPELLANTS,

vs.

THE UNITED STATES OF AMERICA, THE INTERSTATE COMMERCE COMMISSION, ET AL.

No. [redacted] 45

THE UNITED STATES OF AMERICA AND THE INTERSTATE COMMERCE COMMISSION, APPELLANTS,

vs.

THE BEAUMONT, SOUR LAKE & WESTERN RAILWAY COMPANY, THE FORT WORTH AND DENVER CITY RAILWAY COMPANY, ET AL.

APPEALS FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF MISSOURI

FILED FEBRUARY 8, 1930

(34,773, 34,774)

(34,773, 34,774)

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1929

No. 642

THE BEAUMONT, SOUR LAKE & WESTERN RAILWAY COMPANY, THE FORT WORTH AND DENVER CITY RAILWAY COMPANY, ET AL., APPELLANTS,

vs.

THE UNITED STATES OF AMERICA, THE INTERSTATE COMMERCE COMMISSION, ET AL.

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THE BEAUMONT, SOUR LAKE & WESTERN RAILWAY COMPANY, THE FORT WORTH AND DENVER CITY RAILWAY COMPANY, ET AL.

APPEALS FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF MISSOURI

VOL. II

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cent increase. After discussion Attorney Towner said that he would try to find out if he could and report at the next hearing what increase the 14 per cent increase meant to the western trunk lines on Oklahoma business as applied to the [fol. 419] traffic of June, 1924 (Tr. 4607-4608).

The following is quoted verbatim from the Transcript of testimony:

Mr. Muckley: I have another request, and that is in view of the statement of Mr. Towner with reference to their attempt to settle this case and to arbitrate it, I would like to say that we have not been informed of what the western trunk lines want or what their position is and in order to permit us to intelligently act on the proposition of arbitration, we would like to have Mr. Towner state their position and what they want at this time.

Mr. Towner: I have not quite finished with the testimony. Would you rather go into it now or——

Mr. Muckley: I thought you were through. Are you going, in your further testimony, to show what you want,

Mr. Towner: Mr. Parsons was not done yet——

The Witness (continuing): The net debit joint facility rents on the Chicago Great Western in 1924 was $841,-703.02. The net debit hire of equipment, freight cars, was $426,408.33, the principal items being payments on private line tank and refrigerator cars. The ratio of transportation expenses to revenues on the Chicago Great Western in 1924 was 41.37 per cent; in 1923, 42.01 per cent (Tr. 4609-4610).

The mileage on the Chicago & North Western lines in Wyoming and Nebraska is 1,379.15 miles or 16.30 per cent of the system mileage. 7,083.68 miles or 83.70 lies in the states east of Wyoming and Nebraska, including North and South Dakota. That is all west and south of Chicago. In North and South Dakota there is 1,244.73 miles or 14.71 per [fol. 420] cent of the total mileage operated in 1924. The Chicago, Milwaukee & St. Paul in 1924 operated 10,988.92 miles. Of that 8,184.39 miles or 74.50 per cent was east of Montana. The mileage in Idaho, Montana, and Washington was 2,555.85 or 23.26 per cent. The remaining mileage of 246.46 or 2.24 per cent is the southeastern line extending

down into Indiana, the Chicago, Terre Haute & Southeastern (Tr. 4610-4611).

Some question was raised with respect to my inclusion of the Rock Island, the Santa Fe and the Missouri Pacific in the southwestern lines in connection with the statements that I offered. In 1924 these three railroads operated a total mileage of 24,041.04 miles. That mileage was distributed in this way: In the states of Illinois, Iowa and Minnesota, 3,453.22 miles, or 14.36 per cent. In Missouri, 2,542.03 miles or 10.58 per cent. In the states of Arkansas, Louisiana and Oklahoma 6,042.54 miles or 25.13 per cent, and in the other states 12,002.65 miles. I do not include Texas because these roads have no mileage in Texas operated under those particular names. The other states' mileage amounted to 49.39 per cent of the total (Tr. 4611-4612).

Now, adding the mileage of those roads in Illinois, Iowa, Minnesota, Missouri, to the mileage as shown in those states for the western trunk lines would bring the mileage is W. T. L. territory, that is, the six states of Illinois, Iowa, Michigan, Minnesota, Missouri and Wisconsin to 36,125.92 which would be 50.33 per cent of the total operated mileage of the fifteen roads represented, leaving in other states 35,653.14 miles, which is 49.67 per cent of the total (Tr. 4612).

Cross-examination:

The Chicago, Milwaukee & St. Paul operated 2,170.55 miles or 19.76 per cent of its total operated mileage in the states of North and South Dakota. All of my figures are [fol. 421] for the calendar year, 1924 (Tr. 4613).

The witness was thereupon excused and Attorney Towner announced that this completed the direct evidence with the exception of a few minor things which he might desire to introduce later.

COLLOQUY

Thereupon the following discussion occurred which is quoted varbatim from the Transcript of testimony:

Mr. Roberts: Mr. Towner, I want to make a request on behalf of the line that I represent. I was not here at the beginning of the hearing Monday and I am making the request on behalf of the carrier that I represent.

I am informed that you made the statement upon the record that the western trunk lines were willing to arbitrate this controversy. Now, speaking for my own line, we believe that the tribunal created for that purpose by Congress is the proper body to arbitrate our differences, especially since that body has instituted this investigation of its own motion, and we do not wish to defeat it of its right to pass upon the controversy, since it instituted this investigation.

However, since you have made that proposition upon the record, to take it away from the Interstate Commerce Commission and thus deprive it of its right to continue with this investigation of its own motion, we wish to consider your proposition, and in order to act intelligently upon it and in order to give you a proper answer within a reasonable time after the conclusion of this hearing, will you be kind enough to give the carrier that I represent the demand of the western trunk lines as to the divisions between the entire southwest to western trunk lines and state specifically what the western trunk lines deem to be reasonable, just and fair division.

You need not answer that now if you don't want to, but [fol. 422] will you give that answer to us in a written communication within, say, ten days after this hearing, so that we may reply to your request for an arbitration.

Mr. Towner: Well, I will say first—(Tr. 4613-4614).

Mr. Roberts: I am not asking it now. Will you give it in ten days?

Mr. Towner: You will find out now if you will just let me talk a minute.

Exam. Disque: I might say that the Commission, I think, would be very glad to be defeated, Mr. Roberts.

Mr. Roberts: If that is true, then I would like to get an answer to my question.

Exam. Disque: All right.

Mr. Towner: I was going to say on that point——

Mr. Roberts: So we can consider the proposition.

Mr. Towner: I was going to say that the offer to arbitrate of course is subject to the Commission's approval. If the

Commission prefers to hear the case and decide it itself, of course we have absolutely no objection to it, but I thought that possibly that method of procedure would relieve the Commission of what might be an ungrateful job.

Now, with respect to your other inquiry, I will say this: that my desire on behalf of the lines that I represent is to advocate, either to the Commission or to the southwestern lines, a set of divisions that I think is fair and justified by the evidence that may be put on this record. I could of course tell you what I think would be proper in the way of divisions if only our evidence was to be considered. I cannot tell you though what I think the divisions should be [fol. 423] and what divisions could be justified by the record unless the record is completed.

Now, I take that position as far as my own—— (Tr. 4615).

Mr. Roberts: This proposition is to take it off the record and leave it to arbitration.

Mr. Towner: I take it even in arbitration there is a record that the arbitrators would have to consider. I do not mean these arbitrators would act any differently, if they act, from how arbitrators ordinarily act in cases. They ordinarily act on the evidence and proof and argument that is put in before them. I do not want to be put in the position, either before you gentlemen, any court or before the Commission of advocating something that is not justified to some extent at least by the entire record and it would be obviously foolish for me to undertake to say now what the divisions ought to be when neither I nor anybody else has heard anything but one side of this case. I may change any ideas entirely after I hear the very able defense that will undoubtedly be put in.

Mr. Roberts: Then you will not comply with our request in order that we may act upon your request for arbitration by stating to us specifically what you demand.

Mr. Towner: I will say this——

Mr. Roberts: Within ten days. I am not asking it now.

Mr. Towner: I would not want to do it. What I am saying is that I cannot do it, but I would like to ask you a question now, if that is all right with you. Just what has

the question of what we want got to do with whether or not you will arbitrate?

Mr. Roberts: It has everything to do with it.

Mr. Towner: Arbitration merely involves the selection of the forum before whom you will arbitrate your difficulties. What difference does it make before any forum you [fol. 424] agree to as to what we want?

Mr. Roberts: It has everything to do with it.

Mr. Towner: That is a conclusion.

Mr. Roberts: That is a vital fact for us to know if we are going to arbitrate, just what you are specifically demanding.

Mr. Towner: Why?

Mr. Roberts: Because that question would determine our action in the matter.

Mr. Towner: In other words, if we do not want much——

Mr. Roberts: If you don't care to give me the information, that is all right.

Exam. Disque: If he asks for mileage pro rata, you would refuse to arbitrate?

Mr. Roberts: Just a minute.

Exam. Disque: If he asks for something less than a mileage pro rata you would arbitrate, is that it?

Mr. Roberts: There is no use of answering a hypothetical question. I would like to know what the western trunk lines specifically are requesting in the form of divisions. Then we can make an answer (Tr. 4616-4617).

Mr. Towner: We are requesting what is fair and proper and just, but I could not undertake to tell you what is fair and proper and just until I hear all of the evidence. I am certainly no better than the Commission in that respect.

Mr. Roberts: A man who brings a lawsuit usually knows what he wants in advance. I never saw a man who brought a lawsuit who did not know what he wanted.

Mr. Towner: I know, but I am a sort of an amicus curiæ here. I want to see justice done, that is all. But I cannot see for the life of me just what connection that question has [fol. 425] with the question of whether or not you are willing to arbitrate.

Mr. Muckley: Usually when you arbitrate something there is a definite dispute about something. Now, what is the dispute?

Mr. Towner: Let us set a precedent in this case.

Exam. Disque: The dispute is that they are supposed to be convinced in their own minds that they are not getting enough divisions.

Mr. Muckley: They have not said that yet.

Mr. Towner: I will state that as a matter of record, that I do not think the western trunk lines are getting enough money in the division of the southwestern rates.

Exam. Disque: But you are not prepared to say how much more you ought to have.

Mr. Towner: I do not know. How can I tell?

Mr. Muckley: If any.

Mr. Towner: If any.

Mr. Roberts: He says he may withdraw his complaint after he hears our evidence.

Mr. Towner: That is possible. That is, I would withdraw it if I had any complaint on file.

Mr. Larimore: I would like to make a request in an effort to reach a common ground.

Mr. Burg: It is understood, I take it, that that talk about arbitration does not include the M. K. & T. lines, does it?

Mr. Roberts: I spoke for the Frisco only (Tr. 4618-4619).

Attorney Larimore here requested that the western trunk lines furnish for each carrier for the months of June and October, 1924, the total of all freight traffic handled by such lines in tons, ton miles and revenue per ton per mile. After discussion of this request, Attorney Towner said: You want [fol. 426] it just for the roads I represent, of course, I take it. I cannot undertake to furnish anything for anybody I do not represent.

The following is quoted verbatim from the Transcript of testimony:

Mr. Roberts: I thought you represented the western trunk lines.

Mr. Towner: Well, I entered an appearance for seven or eight specific railroads.

Mr. Larimore: Well, now, those that you do not represent, being participants in the net results, somebody representing those lines should furnish this information.

Mr. Towner: That may be so, but I cannot speak for them. The C. & E. I. have been here by their counsel and

the Burlington has entered an appearance and the Soo Line.

Mr. Larimore: The Rock Island has not.

Mr. Towner: Yes, the Rock Island has entered an appearance. I take it the Santa Fe would furnish those figures that you want without any difficulty or any objection. The Missouri Pacific probably will.

Mr. Larimore: As far as you are concerned, I will confine that request to the lines you represent (Tr. 4619-4620).

Attorney Towner thereupon agreed to procure this information for the roads which he represented. Attorney Muckley thereupon requested that a statement showing the increase in revenues that the western trunk lines would receive from the settlement of the transcontinental and trans-Missouri and Oklahoma divisions be furnished by the western trunk lines. After discussion Attorney Towner agreed to procure this information if possible (Tr. 4621-4622-4623).

[fol. 427] The following is copies verbatim from the Transcript of testimony:

Mr. Towner: Now, are the other southwestern lines of the same view as Mr. Roberts with respect to this arbitration.

Exam. Disque: Which ones are you speaking to now?

Mr. Towner: All of them.

Exam. Disque: They do not seem to have any common representative.

Mr. Muckley: I think so far as the Southern Pacific Line is concerned, before we can answer a proposition to arbitrate, we should have your position.

Mr. Towner: Could you tell me any better than Mr. Roberts did just what connection there is between the two things?

Mr. Muckley: No, I could not do it any better. I think his answer is complete.

Mr. Towner: I see. All right.

Mr. Roberts: I do not know how to settle a lawsuit until I find out what the plaintiff wants (Tr. 4623).

There followed a discussion as to this matter and Attorney Towner said that the practice in the personal injury suit was to ask for everything in sight.

The following is copied verbatim from the Transcript of testimony:

Exam. Disque: All right. Tell them you want a mileage pro rata and don't expect all of it.

Mr. Towner: I would not undertake to say that.

Mr. Outlaw: Mr. Towner asked for a direct answer by the other southwestern lines. Speaking only for the Santa Fe Lines, I will not definitely advise him that it is our opinion that arbitration is impracticable.

Mr. Davis: I will join in that statement for the Kansas [fol. 428] City Southern.

Mr. Towner: That settles it. It is immaterial now what the rest of them think.

Exam. Disque: What they think about it right now does not make it a fact later on.

Mr. Towner: No, I disagree with the conclusion of fact, but I say there is no use to arbitrate with only two of them.

Mr. Davis: It does not mean necessarily that after you made your proposition we might not change our point of view.

Exam. Disque: It may be at the end of the next hearing Mr. Towner can come forward and tell us that he wants such and such a basis of divisions. It may be that will sound half way reasonable to you and you will talk to him about it.

Mr. Muckley: We have some demands to make also, Mr. Examiner.

Exam. Disque: He will listen to your demands too.

Mr. Muckley: I did not want this case to assume the aspect of western trunk line demands (Tr. 4624-4625).

After a discussion as to the time of the next hearing and the procedure, the following occurred, which is quoted verbatim from the Transcript of testimony:

Mr. Muckley: May I ask in a case like this, where there is no complainant, will the western trunk lines have the right of rebuttal?

Exam. Disque: Yes.

Mr. Towner: There is one definite answer.

Exam. Disque: Do you agree with that, do you want the right of rebuttal?

Mr. Towner: Absolutely.

Mr. Muckley: I assume then we will have the right to sur-
[fol. 429] rebuttal.

Mr. Towner: I dont' assume that.

Exam. Disque: The western trunk lines will be treated as complainants as far as I am concerned.

Mr. Muckley: That settles it. then. All right (Tr. 4625-4626).

The hearing was thereupon closed with an announcement of further hearing at a later date.

[fol. 430] Proceedings at Galveston, Texas, February 3, 1926

Met pursuant to notice.

Exam. Disque: Come to order, please. This is a further hearing in Docket 15234, the Western Division case.

B. F. Parsons was thereupon recalled as a witness and testified as follows:

Direct examination:

I have checked the traffic shown in Mr. Balch's exhibit which was shown to have moved through Omaha, the check being made with respect to the divisions of the ton miles East and West and North and South of Omaha. The check developed that where the exhibits show revenue and ton miles via Council Bluffs, Omaha or south Omaha, that there was included in the Northern and Eastern portion only the revenue and the revenue and the ton miles North and East of Council Bluffs, Omaha and South Omaha and that was included in the revenue and ton miles, the total revenue and ton miles South of those gateways (Tr. 4631-2).

The revenue between Kansas City and Omaha or South Omaha or Council Bluffs was added to the Southwestern Lines revenue because the primary division in such cases is at Council Bluffs, Omaha or South Omaha. In all cases where the primary division of the revenue was made at Kansas City, the revenue and ton miles north of Kansas City included all of the service and all of the revenue north of Kansas City, though the shipments made subsequently have moved through Omaha or Council Bluffs.

The principal interchange at South Omaha, which was most of the traffic reported through that gateway, was between the Northwestern and the Missouri Pacific and of course we had no subdivision of the revenue south of Omaha (Tr. 4631-4632).

[fol. 431] I have prepared information concerning all the traffic and ton miles on the Western Trunk Lines during June and October, 1924.

I have selected the number of tons carried, tons carried one mile, and the revenue per ton mile in mills, also the freight revenue of the Western Trunk Lines for the months of June and October, 1924, and will read those figures into the record. First are the figures for June, 1924, and in the order stated are respectively, tons carried, tons carried one mile, freight revenue (Account 101) and the revenue per ton mile in mills. C. & A. Railroad 967,910, 162,443,986, 1,627,656.60, 10.02. C. & E. I. Railway 806,607, 135,021,816, 1,224,554.20, 9.07. C. & N. W. Railway 4,586,651, 585,174,000, 8,019,199.00, 13.70. C. B. & Q. Railroad 2,803,522, 798,448,090, 8,140,059.26, 10.19. C. G. W. Railroad 513,993, 143,901,850, 1,472,161.16, 10.23. C. M. & St. P. 3,633,461, 742,677,000, 8,789,175.00, 11.83. C. St. P. M. & O. 725,557, 110,519,615, 1,431,873.86, 12.96. Ill. Cent. Railroad 3,454,805, 929,134,114, 8,577,151.93, 9.23. M. & St. L. Railroad 468,968, 74,632,045, 894,124.36, 11.98. M. St. P. & S. S. M. Railway 1,424,956, 243,304,000, 2,724,463.00, 11.20. Wabash Railway 1,485,503, 315,418,000, 3,853,051.00, 10.26 (Tr. 4633).

Now come the figures for October, 1924, which in the order stated, are respectively, tons carried, tons carried one mile, freight revenue (Account 101) and the revenue per ton mile in mills. C. & A. Railroad 1,290,349, 217,292,482, 2,187,218.01, 10.07. C. & E. I. Railway 1,369,276, 217,543,[fol. 432] 329, 1,898,625.89, 8.73. C. & N. W. Railway 5,880,504, 957,260,000, 11,327,060.00, 11.83. C. B. & Q. Railroad 4,972,647, 1,336,859,299, 12,988,067.16, 9.72. C. G. W. Railroad 701,655, 198,858,077, 1,921,090.07, 9.66. C. M. & St. P. 5,083,075, 1,238,031,000, 13,340,024.00, 10.78. C. St. P. M. & O. 1,217,081, 188,866,085, 2,281,977.31, 12.08. Ill. Cent. Railroad 5,002,121, 1,243,258,458, 11,068,212.56, 8.90. M. & St. L. Railroad 779,890, 145,083,631, 1,445,635.42, 9.96. M. St. P. & S. S. M. Railway 1,736,176, 421,479,000, 4,650,061.00, 11.03. Wabash Railway 1,958,896, 491,155,000, 5,062,554.00, 10.31 (Tr. 4634).

I have assembled some figures with respect to the increase in the revenues of the Western Trunk Lines resulting from the settlement of the trans-Missouri and the transcontinental divisions. In preparing their traffic statistics covering trans-Missouri territory, which is roughly traffic to and from points in the States of Colorado, Kansas, Nebraska, Oklahoma, Utah and Wyoming, the Western Trunk Lines have only data as to business actually handled in the month of June, 1924. Taking that traffic as a basis and dealing first with the State of Oklahoma, we find that on the traffic subject to the percentage division whether moving to or from points on the Santa Fe, Rock Island and Missouri Pacific or other Oklahoma Lines, that the total revenue of the Western Trunk Lines through the Missouri River gateways in the month of June, 1924, was $13,798.85, and that applying the increased division on that part of the traffic moving via the route over which the divisions were increased, the revenue would have amounted to $15,730.69, or an increase of $1,931.84. Extending that on an annual basis by applying to the actual increase thus computed the ratio that the freight revenue in June was of the total year, we estimate that the annual increase on Oklahoma amounts to $35,553.44. That is just an estimate based on what I [fol. 433] ascertain to be the fact in June, 1924 (Tr. 4635).

We have those figures for these roads: Chicago & Alton, C. & N. W., C. G. W., Illinois Central, M. & St. L., and the Wabash. In the same way, making the calculation as to the balance of the Trans-Missouri traffic moving to and from points in Colorado, Kansas, Nebraska, Utah and Wyoming, the increase in the month of June is bound to amount to $31,037.21 and extending that on an annual basis the total increase is estimated at $410,545.11. Taking the total trans-Missouri traffic, the actual increase on basis of June, 1924, traffic is $32,969.05 and the estimated annual increase $436,098.55. The last figure I read included the Oklahoma along with the other trans-Missouri. Going along now to the transcontinental traffic;—that information was for the six roads I have named. Going now to the transcontinental traffic: We have actual statistics covering six months business moving in January, February, March, July, August and September, 1924, excluding though lumber traffic originating in the North Pacific Coast territory. These figures cover traffic handled in those months by the Chicago &

Alton, C. & N. W., C. St. P. M. & O., C. G. W., Illinois Central and M. & St. L. Railroads. We find that the increased percentages effective July 1st, 1925, if applied to the business moving in these six months of 1924 on the same traffic, would have increased the freight revenue of the Western Trunk Lines named $555,679.36. That is for the six month period (Tr. 4635-4636).

The percentages established effective July 1, 1925, duplicated the division formerly used on North Pacific Coast [fol. 434] lumber and uniformly reduced the *reduced the* revenue of the Western Trunk Lines on that traffic. Based on the exhibits that were introduced by the Great Northern, Northern Pacific and the Chicago Great Western covering a good many thousand carloads of this traffic, we were able to estimate the approximate reduction of the lumber traffic and we found that on the basis of actual carrying determined by counting the number of cars handled in those six months, that the change in division reduced the freight revenue of these Western Trunk Lines on the lumber $170,057.49, so that on the six months business the net increase in the revenue of these Western Trunk Lines on transcontinental traffic was $385,621.87. Extending this on an annual basis on the same ratio, that the total freight revenue in these six months was to the freight revenue for the year, we estimated an annual increase of $761,825.57 (Tr. 4636-4637).

Applying these increases to the total freight revenue of these roads for the year 1924, the increase on trans-Missouri traffic was equal to an increase of .135 per cent or about one seventh of one per cent. The increase on the trans-continental traffic was equal to .261 per cent or a trifle more than one quarter of one per cent in the total freight revenue of these Western Trunk Lines for the year (Tr. 4637).

At the previous hearing I introduced Exhibit A-55 containing certain operating and traffic statistics of the Western Trunk Lines and Southwestern Lines for the eight months ended August 31, 1925. Since that hearing I have brought these exhibits down as near to date as the information available would permit. Exhibit A-78, consisting of two pages covers the eleven months ended November 30, 1925, and shows the general operating results, operating ratio, railway operating income, and on the second page the

[fol. 435] averages by groups, including the rate of returns earned in the eleven months. This is not extended on an annual basis, but merely represents the percentage that the railway operating income of these eleven months was of the property investment account, including material and supplies as of December 31, 1924 (Tr. 4638).

The source of my information is the reports of the carriers to the Interstate Commerce Commission. The exhibit is self explanatory except as to the investment in Road & Equipment and Material & Supplies. I used in most instances the data shown in Mr. Balch's Exhibit A-50 except that I found in one or two instances the figures employed by Mr. Balch were a little different than those used by Mr. Wetling in Ex Parte 87 and set out in his Exhibit 1 and in those cases I used Mr. Wetling's figures. That was particularly so in the case of the C. B. & Q., M. & St. L., Soo Lines, K. C. M. & O. and the Missouri Pacific (Tr. 4638-4639).

Exhibit A-79 is a statement of freight revenue, ton miles and revenue per ton mile for the ten months ended October 31, 1925. The ton miles are not reported to the Commission quite as soon as the general operating results and I was only able to bring this statement up to the close of October. As these figures are taken from the U. S. reports which are made by system instead of by individual roads, they are grouped a little differently particularly on the second page, where I have shown the Texas and Louisiana lines as one group instead of two separate groups (4639).

I have another exhibit, A-80. At the previous hearing I introduced Exhibit A-39, which showed by States or Divisions of States the traffic density in the two territories. The manner of dividing the territory as shown in that exhibit was not exactly as set out in the Commission's notice of September 8, 1925 in that the Commission's notice included the entire State of Minnesota and the States of North and South Dakota in Western Trunk Line territory. I have revised the exhibit and it has been distributed and given No. A-80. It consists of six pages and shows the same general character of information in Exhibit A-39. I think it only necessary to explain the figures with reference to the State of Missouri. The Commission's notice of September 8, 1925, described as Western Trunk Line territory that part

[fol. 436] of the State of Missouri on and North of the main line of the Missouri Pacific Railway from St. Louis to Kansas City. The Missouri Pacific has considerable mileage in Missouri South of that line and the Rock Island has mileage both North and South. In order to give the picture as completely as possible, I have shown two entries for Missouri; first, Missouri on and North of the Missouri Pacific, and below that the State of Missouri North of that line, but excluding the Rock Island and the Missouri Pacific, and the same way in the Southwestern territory, I have shown the figures for that part of Missouri South of the Missouri Pacific and also figures for Missouri including the Rock Island and the Missouri Pacific with the lines South of the Missouri Pacific main line. The grouping of the roads in each state are set out in full on page 6. In this exhibit I have used entirely the figures compiled by Mr. L. E. Wetling, Manager of the Western Lines Statistical Bureau, which are made up from statements rendered to him by the Accounting Departments of the several railroads excepting that in the State of Minnesota I eliminated the Duluth and Iron Range and the Duluth-Missabe & Northern Railways. Those are two ore carrying roads and substantially all of whose freight traffic consists of iron ore from the ranges to Duluth. The tons carried by the two roads in 1924 consisted of 89.26 per cent of the iron ore, which fluctuates somewhat from year to year and does not really reflect the general traffic conditions of the State of Missouri. Those roads have very heavy traffic density, particularly when the ore movement is good, but they have little or no joint traffic (Tr. 4639-4641).

[fol. 437] The three exhibits described by the witness and referred to by exhibit numbers were thereupon offered in evidence (Tr. 4641).

Exhibits A-78, A-79 and A-80 were received in evidence, which said exhibits, omitting title page, are in words and figures as follows:

(Here follow Exhibits Nos. A-78, A-79, and A-80, side folios 438, 439, 440, 441, 442, 443, 444, 445 and 446.)

[fol. 438]

EXHIBIT No. "A-78"

Witness: Parsons

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1925

I. C. C. Docket 15234

Railway Operating revenues and Expenses

Eleven Months Ended November 30, 1925

Railroad	Average miles operated	Investment in road and equipment including material and supplies	Railway operating revenue	Railway operating expenses	Net Revenue from railway operations	Operating ratio	Ra... a...
Chicago & Alton	1 055.92	$155 856 284	$28 365 080	$21 403 432	$6 961 648	75.5%	$1
C. & E. I	945.13	88 842 434	23 936 164	19 992 038	3 944 126	83.5	1
C. & N. W	8 461.56	507 523 474	136 313 927	106 078 679	30 235 248	77.8	8
C. B. & Q	9 398.10	585 229 810	145 423 999	106 576 855	38 847 144	73.3	9
C. G. W	1 496.06	172 121 988	22 434 171	18 245 786	4 188 385	81.3	
C. M. & St. P	11 204.93	734 238 571	148 235 432	120 113 118	28 122 314	81.0	8
C. St. P. M. & O	1 749.19	90 350 290	24 649 171	19 679 039	4 970 132	79.8	1
Illinois Central	4 874.99	509 648 414	139 831 776	107 446 710	32 385 066	76.8	9
M. & St. L	1 635.41	67 199 920	13 759 341	12 158 518	1 600 823	88.4	
M. St. P. & S. S. M	4 401.64	214 831 602	45 834 739	33 247 765	12 586 974	72.5	2
Q. O. & K. C	250.84	6 461 201	926 423	999 343	Def 72 920	107.9	
Wabash	2 524.20	246 750 455	63 619 586	47 118 292	16 501 294	74.1	2
A. T. & S. F	9 185.51	851 472 516	179 965 894	123 548 736	56 417 158	68.7	14
B. S. L. & W	118.75	3 469 826	2 583 320	1 708 858	874 462	66.1	
C. R. I. & G	459.91	19 895 471	5 676 322	4 134 735	1 541 587	72.8	
C. R. I. & P	7 569.63	403 736 660	113 732 781	88 524 259	25 208 522	77.8	6
Ft. W. & D. C	474.87	31 604 890	10 287 355	6 490 226	3 797 129	63.1	
G. H. & S. A	2 101.34	114 639 088	26 904 886	21 769 738	5 135 148	80.9	
G. C. & S. F	1 908.84	66 742 603	26 459 084	19 760 561	6 698 523	74.7	
H. & S	a						
H. & T. C	929.14	44 408 108	13 434 755	10 346 722	3 088 033	77.0	
H. E. & W. T	191.60	7 801 789	3 119 115	2 269 814	849 301	72.8	
I. G. N	1 159.50	47 533 245	15 497 324	12 285 937	3 211 387	79.3	
K. C. M. & G	272.20	22 642 732	2 283 704	2 038 387	245 317	89.3	
K. C. M. & O. of Tex	465.75	6 980 146	2 948 939	2 359 630	589 309	80.0	
K. C. S	777.04	105 221 379	16 686 754	11 839 983	4 846 771	71.0	1
K. O. & G	314.42	c 19 022 235	2 266 955	2 059 861	207 094	90.0	

EXHIBIT No. "A-78"

Witness: Parsons

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I. C. C. Docket 15234

Railway Operating revenues and Expenses

Eleven Months Ended November 30, 1925

Railway operating revenue	Railway operating expenses	Net Revenue from railway operations	Operating ratio	Railway tax accruals	Uncollectible railway revenue	Equipment rents net debit	Joint facility rents net debit	Railway operating income
$28 365 080	$21 403 432	$6 961 648	75.5%	$1 161 131	$7 845	$901 396	$740 736	$4 150 540
23 936 164	19 992 038	3 944 126	83.5	1 260 000	10 329	573 603	327 783	1 772 411
136 313 927	106 078 679	30 235 248	77.8	8 800 000	40 685	1 410 403	229 553	19 754 607
145 423 999	106 576 855	38 847 144	73.3	9 969 742	29 674	1 224 327	1 839 462	25 793 939
22 434 171	18 245 786	4 188 385	81.3	892 215	3 666	644 228	811 481	1 836 795
148 235 432	120 113 118	28 122 314	81.0	8 150 000	61 882	3 227 358	2 090 706	14 592 368
24 649 171	19 679 039	4 970 132	79.8	1 433 304	17 962	225 792	390 324	2 902 750
139 831 776	107 446 710	32 385 066	76.8	9 987 806	32 259	Cr 635 620	163 143	22 837 478
13 759 341	12 158 518	1 600 823	88.4	700 981	2 509	585 038	89 057	223 238
45 834 739	33 247 765	12 586 974	72.5	2 936 933	6 007	629 772	643 459	8 370 803
926 423	999 343	Def 72 920	107.9	50 979	18	10 261	23 707	Def. 157 885
63 619 586	47 118 292	16 501 294	74.1	2 857 785	6 743	1 736 469	1 167 015	10 733 282
179 965 894	123 548 736	56 417 158	68.7	14 617 042	36 300	Cr 451 427	541 776	41 673 467
2 583 320	1 708 858	874 462	66.1	85 379	5 487	432 224	127 354	224 018
5 676 322	4 134 735	1 541 587	72.8	267 149	1 588	183 869	40 273	1 048 708
113 732 781	88 524 259	25 208 522	77.8	6 032 902	68 070	3 096 023	1 279 984	14 731 543
10 287 355	6 490 226	3 797 129	63.1	598 667	3 336	79 685	44 654	3 070 787
26 904 886	21 769 738	5 135 148	80.9	988 881	24 409	850 588 Cr	57 818	3 329 088
26 459 084	19 760 561	6 698 523	74.7	975 734	10 224	1 171 678	85 315	4 455 572
13 434 755	10 346 722	3 088 033	77.0	718 722	6 702	713 689 Cr	181 155	1 830 075
3 119 115	2 269 814	849 301	72.8	134 805	1 975	188 432	9 669	514 420
15 497 324	12 285 937	3 211 387	79.3	399 975	1 899	660 846	64 634	2 084 033
2 283 704	2 038 387	245 317	89.3	71 988	948	156 741	13 154	2 486
2 948 939	2 359 630	589 309	80.0	76 619	798	240 075 Cr.	31	271 848
16 686 754	11 839 983	4 846 771	71.0	1 061 125	8 096	206 316	143 486	3 427 748
2 266 955	2 059 861	207 094	90.0	92 617	112	128 994 Cr.	289	Def 14 340

K. C. S.	777 [illegible]	105 221 379	16 686 754	11 839 983	4 846 771	71.0	1 061
K. O. & G.	314.42	c 19 022 235	2 266 955	2 059 861	207 094	90.0	92
K. O. & G. of Tex.	a						
L. R. & N. Co.	337.63	23 360 802	3 503 085	2 918 834	584 251	83.3	220
L. R. & N. Co. of Tex.	206.08	3 252 667	1 218 231	1 011 796	206 435	83.0	43
La. Western	207.74	d 10 129 878	3 882 013	2 923 410	958 603	75.3	286
M. K. T.	1 799.31	206 815 112	32 282 136	20 755 353	11 526 783	64.3	1 979
M. K. T. of Tex.	1 389.23	73 475 120	19 997 517	15 298 249	4 669 268	76.6	650
Mo. Pac.	7 337.61	430 081 722	119 562 929	93 448 687	26 114 242	78.2	4 772
M. L. & T.	400.67	d 33 481 927	7 641 501	6 903 949	737 552	90.3	553
N. O. T. & M.	191.22	19 317 404	3 180 361	2 312 057	868 304	72.7	202
P. H. & S. F.	858.49	29 833 585	10 134 149	6 636 028	3 498 121	65.5	480
St. L. B. & M.	550.22	17 455 103	7 599 691	4 716 621	2 883 070	62.1	353
St. L. S. F.	4 909.83	409 052 437	82 184 588	56 921 762	25 262 826	69.3	4 517
St. L. S. F. & Tex.	137.95	3 528 591	1 991 248	1 441 702	549 546	72.4	25
St. L. S. W.	943.24	83 016 825	16 558 433	11 353 847	5 204 586	68.6	709
St. L. S. W. of Tex.	807.20	39 657 785	7 131 873	6 920 088	211 785	97.0	302
S. A. & A. P.	b						
T. & Ft. S.	81.08	5 232 523	2 692 866	1 520 419	1 172 447	56.5	174
Texas & N. O.	541.20	d 29 730 954	10 140 265	7 976 622	2 163 643	78.7	350
Texas & Pacific	1 952.91	140 757 184	31 661 137	23 870 050	7 791 987	75.4	1 682
V. S. & P.	188.46	11 458 714	4 135 276	3 148 269	987 007	76.1	296

a—Data not available.
b—Data shown for G. H. & S. A. includes S. A. & A. P.
c—Includes K. O. & G. of Texas.
d—For year ended December 31, 1923.
*—+As of December 31, 1924.

16 686 754	11 859 983	4 846 771	71.0	1 061 125	8 096		206 316		145 486	3 427 748
2 266 955	2 059 861	207 094	90.0	92 617	112		128 994	Cr.	289	Def 14 340
3 503 085	2 918 834	584 251	83.3	220 000	1 935		358 611	Cr.	9 106	12 811
1 218 231	1 011 796	206 435	83.0	43 774	325		140 611		48 029	Def 26 304
3 882 013	2 923 410	958 603	75.3	286 295	957		85 950		16 311	569 090
32 282 136	20 755 353	11 526 783	64.3	1 979 585	11 618	Cr	409 994		369 187	9 576 387
19 997 517	15 298 249	4 669 268	76.6	650 996	11 140		1 796 938		251 163	1 989 031
119 562 929	93 448 687	26 114 242	78.2	4 772 695	33 286		3 644 780	1	203 871	16 459 610
7 641 501	6 903 949	737 552	90.3	553 967	5 706		273 054		73 042	Def 168 217
3 180 361	2 312 057	868 304	72.7	202 942	7 756	Cr	668 929		1 886	1 324 649
10 134 149	6 636 028	3 498 121	65.5	480 155	3 429		566 022		33 566	2 414 949
7 599 691	4 716 621	2 883 070	62.1	353 533	4 199		289 055		117 025	2 119 258
82 184 588	56 921 762	25 262 826	69.3	4 517 885	24 997		694 733		79 340	19 945 871
1 991 248	1 441 702	549 546	72.4	25 786	1 518		131 261		140 302	250 679
16 558 433	11 353 847	5 204 586	68.6	709 203	1 631		20 657		776 541	3 696 554
7 131 873	6 920 088	211 785	97.0	302 000	3 246	Cr	152 294	Cr	371 623	430 456
2 692 866	1 520 419	1 172 447	56.5	174 189	668		326 787	Cr	31 524	702 327
10 140 265	7 976 622	2 163 643	78.7	350 146	4 163		345 039		31 737	1 432 558
31 661 137	23 870 050	7 791 987	75.4	1 682 500	30 583		723 833		101 198	5 252 973
4 135 276	3 148 269	987 007	76.1	290 817	989		139 344		3 964	551 893

[fol. 439]

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I. C. C. Docket 15234

Railway Operating Revenues and Expenses

Eleven Months Ended November 30, 1925

	Western Trunk Lines	Texas Lines	Louisiana Lines	Other Southwestern Lines	All Southwestern Lines
Average Miles of Road Operated	47 998	14 334	1 326	33 109	48 769
Railway Operating Revenues	$793 329 809	$199 478 077	$22 342 236	$565 524 174	$787 344 487
Railway Operating Expenses	613 059 575	150 517 796	18 206 519	410 490 875	579 215 190
Net Railway Operating Revenue	180 270 234	48 960 281	4 135 717	155 033 299	208 129 297
Operating Ratio	77.28%	75.46%	81.49%	72.59%	73.57%
Railway Tax Accruals	$48 200 876	$8 309 010	$1 554 021	$33 855 042	$43 718 073
Uncollectible Railway Revenue	219 579	115 689	17 343	185 058	318 090
Equipment Rents, Net Debit	10 533 027	8 698 338	188 030	7 086 823	15 963 191
Joint Facility Rents, Net Debit	8 506 426	452 768	86 097	4 407 050	4 945 915
Net Railway Operating Income	112 810 326	31 394 476	2 290 226	109 499 326	143 184 028
#Total Expense Ratio	83.38%	79.68%	88.52%	78.61%	79.16%
Property Investment, including Material and Supplies, as of December 31, 1924	$3 379 054 443	$689 998 678	$97 748 725	$2 531 061 618	$3 318 809 021
Rate of Return (Eleven Months)	3.34%	4.55%	2.34%	4.33%	4.31%
Average per Mile of Road:					
Railway Operating Revenues	$16 528	$13 916	$16 849	$17 081	$16 144
Railway Operating Expenses	12 772	10 500	13 730	12 398	11 876
Net Railway Operating Revenues	3 756	3 416	3 119	4 683	4 268
Railway Tax Accruals	1 004	580	1 172	1 023	897
Uncollectible Railway Revenue	5	8	13	6	7
Equipment Rents—Net Debit	220	606	142	214	327
Joint Facility Rents—Net Debit	177	32	65	133	101
Net Railway Operating Income	2 350	2 190	1 727	3 307	2 936
Property Investment, including Material and Supplies, as of December 31, 1924	70 400	48 137	73 717	76 446	68 056

#—Ratio of the sum of Railway Operating Expenses, Railway Tax Accruals and Uncollectible Railway Revenue to Railway Operating Revenue.

NOTE—The grouping of roads used in this exhibit is the same as shown on page 5 of Exhibit A-54.

[fol. 440]

EXHIBIT No. A-79

Witness: Parsons

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1925

I. C. C. Docket 15234

Freight Traffic Statistics

Ten Months Ended October 31, 1925

Railroad		Average miles of road operated	Freight revenues (Account 101)	Ton miles revenue freight	Revenue per ton mile, mills
Chicago & Alton		1 021.94	$18 021 875	1 760 048 000	10.24
C. & E. I.		945.13	16 117 851	1 879 980 000	8.57
C. & N. W.		8 461.56	88 036 841	6 895 392 000	12.77
C. B. & Q.		9 331.59	97 851 504	10 042 437 000	9.74
C. G. W.		1 459.87	15 607 409	1 617 904 000	9.65
C. M. & St. P.		11 201.45	104 429 644	9 895 225 000	10.55
C. St. P. M. & O.		1 726.23	16 335 097	1 320 693 000	12.37
Illinois Central		4 874.99	96 307 206	10 822 127 000	8.90
M. & St. L.		1 633.99	10 807 124	1 013 080 000	10.67
M. St. P. & S. S. M.		4 373.10	32 508 434	2 876 710 000	11.30
Q. O. & K. C.		250.84	614.399	39 648 000	15.50
Wabash		2 496.97	45 671 521	4 308 553 000	10.60
A. T. & S. F.	b	10 043.85	122 425 359	9 437 469 000	12.97
B. S. L. & W.	c				
C. R. I. & G.	d				
C. R. I. & P.	d	8 030.35	79 791 194	6 583 029 000	12.12
Ft. W. & D. C.		471.52	6 647 259	446 490 000	14.89
G. H. & S. A.	e				
Gulf Coast Lines	c	921.74	10 088 739	741 026 000	13.61
G. C. & S. F.		1 897.07	19 646 871	1 980 433 000	9.92
H. & S.	e				
H. & T. C.	e				
H. E. & W. T.	e				
I. G. N.		1 159.50	10 869 022	633 616 000	17.15
K. C. M. & O.		272.20	1 948 163	150 606 000	12.94
K. C. M. & O. of Tex.		465.75	2 449 885	145 845 000	16.80
K. C. S.	f	848.78	14 504 298	1 311 254 000	11.06
K. O. & G.		314.42	1 869 706	154 896 000	12.07
K. O. & G. of Tex.	a				
L. R. & N. Co.		334.46	2 787 458	182 164 000	15.30
L. R. & N. Co. of Tex.		204.77	949 764	65 837 000	14.42
La. Western	e				
M. K. T.		1 787.16	22 981 591	1 732 238 000	13.27
M. K. & T. of Tex.		1 389.23	12 806 084	1 024 102 000	12.50
Mo. Pac.		7 277.83	86 328 817	7 907 468 000	10.92
M. L. & T.	e				

Illinois Central		4 874.99	96 307 206	10 822 127 000	8.90
M. & St. L.		1 633.99	10 807 124	1 013 080 000	10.67
M. St. P. & S. S. M.		4 373.10	32 508 434	2 876 710 000	11.30
Q. O. & K. C.		250.84	614.399	39 648 000	15.50
Wabash		2 496.97	45 671 521	4 308 553 000	10.60
A. T. & S. F.	b	10 043.85	122 425 359	9 437 469 000	12.97
B. S. L. & W.	c				
C. R. I. & G.	d				
C. R. I. & P.	d	8 030.35	79 791 194	6 583 029 000	12.12
Ft. W. & D. C.		471.52	6 647 259	446 490 000	14.89
G. H. & S. A.	e				
Gulf Coast Lines	c	921.74	10 088 739	741 026 000	13.61
G. C. & S. F.		1 897.07	19 646 871	1 980 433 000	9.92
H. & S.	e				
H. & T. C.	e				
H. E. & W. T.	e				
I. G. N.		1 159.50	10 869 022	633 616 000	17.15
K. C. M. & O.		272.20	1 948 163	150 606 000	12.94
K. C. M. & O. of Tex.		465.75	2 449 885	145 845 000	16.80
K. C. S.	f	848.78	14 504 298	1 311 254 000	11.06
K. O. & G.		314.42	1 869 706	154 896 000	12.07
K. O. & G. of Tex.	a				
L. R. & N. Co.		334.46	2 787 458	182 164 000	15.30
L. R. & N. Co. of Tex.		204.77	949 764	65 837 000	14.42
La. Western	e				
M. K. T.		1 787.16	22 981 591	1 732 238 000	13.27
M. K. & T. of Tex.		1 389.23	12 806 084	1 024 102 000	12.50
Mo. Pac.		7 277.83	86 328 817	7 907 468 000	10.92
M. L. & T.	e				
N. O. T. & M.	c				
P. H. & S. F.	b				
St. L. B. & M.	c				
St. L. S. F.		4 808.16	55 196 580	4 113 821 000	13.42
St. L. S. F. & Tex.		137.95	1 601 269	71 765 000	22.31
St. L. S. W.		929.70	12 773 081	930 502 000	13.73
St. L. S. W. of Tex.		807.20	5 223 773	208 736 000	18.48
S. A. & A. P.	e				
Southern Pacific Lines	e	4 143.99	45 350 674	3 403 178 000	13.33
T. & Ft. S.	f				
Texas & N. O.	e				
Texas & Pacific		1 952.78	20 798 852	1 428 891 000	14.56
V. S. & P.		188.46	2 862 307	198 835 000	14.40

a—Data not available.
b—Data shown for A. T. & S. F. includes Panhandle & Santa Fe.
c—Data shown for Gulf Coast Lines includes B. S. L. & W.—N. O. T. & M.—O. & N. W.—St. L. B. & M.
d—Data shown for C. R. I. & P. includes C. R. I. & G.
e—Data shown for Southern Pacific Lines in Texas and Louisiana includes F. & A.—G. H. & S. & A.—H. & S.—H. & T. C.—H. E. & W. T.—I. & V.—L. C. & N.—Louisiana Western—M. L. & T.—S. A. A. P. and T. & N. O.
f—Data shown for K. C. S. includes Texarkana & Fort Smith.

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Page 2
1925

Freight Traffic Statistics

I. C. C. Docket 15234

Ten Months Ended October 31, 1925

	Western Trunk Lines	Texas and Louisiana Lines	Other Southwestern Lines	All Southwestern Lines
Average Miles of Road Operated	47 778	14 074	34 313	48 387
Freight Revenue	$542 308 905	$142 082 457	$397 818 789	$539 901 246
Ton Miles Revenue Freight	52 471 797 000	10 605 008 000	32 321 283 000	42 926 291 000
Revenue Per Ton Mile—Mills	10.34	13.40	12.31	12.58
Averages Per Mile of Road:				
Freight Revenue	$11 351	$10 095	$11 594	$11 158
Ton Miles Revenue Freight	1 098 241	753 517	941 954	887 145

NOTE.—The grouping of railroads used in this exhibit is the same as shown on page 5 of Exhibit A-54, except—
"Texas and Louisiana Lines" and "All Southwestern Lines" include F. & A.—I. & V.—L. C. & N.—O. & N. W.
"Other Southwestern Lines" include C. R. I. & G.—Panhandle & Santa Fe and Texarkana & Fort Smith.

[fol. 442]

EXHIBIT No. A-80

Witness: Parsons

Page 2

1924

I. C. C. Docket 15234

Average Miles of Road Operated, Tons Carried One Mile, Freight Revenue, Ton Miles Per Mile of Road, Revenue Per Ton Mile and Freight Per Mile of Road for Class I Railroads in Western Trunk Line Territory and Southwestern Territory

Year Ended December 31, 1924

	Average Miles of Road Operated	Tons Carried One Mile	Freight Revenue	Ton Miles Per Mile of Road	Revenue Per Ton Mile Mills	Freight Revenue Per Mile of Road
Western Trunk Line Territory:						
Illinois	8 714.58	22 142 730 040	$209 793 074	2 540 883	9.47	$24 074
Iowa	10 088.51	9 813 304 431	105 112 772	972 721	10.71	10 419
Michigan (Upper Peninsula)	1 666.47	1 173 016 727	13 569 359	703 893	11.57	8 143
Minnesota	7 917.80	9 272 264 041	04 058 766	1 171 066	11.22	13 142
Missouri (on and north of Mo. Pac.)	5 107.95	7 374 799 239	81 436 692	1 443 788	11.04	15 943
Missouri (excluding C. R. I. & P. and Mo. Pac.)	2 878.11	4 630 230 290	49 366 021	1 608 775	10.66	17 152
North Dakota	5 143.99	3 340 631 507	35 278 855	649 424	10.56	6 858
South Dakota	4 226.94	1 654 382 636	19 358 479	391 390	11.70	4 580
Wisconsin	7 159.90	7 931 591 171	88 789 323	1 107 780	11.19	12 401
*Total	50 026.14	62 702 719 792	657 397 320	1 253 399	10.48	13 141
Total, excluding C. R. I. & P. and Mo. Pac. in Missouri	47 796.30	59 958 150 843	625 326 649	1 254 452	10.43	13 083
*Total, excluding Illinois	41 311.56	40 559 989 752	447 604 246	981 807	11.04	10 835
Southwestern Territory:						
Arkansas	4 294.06	4 479 790 911	55 391 759	1 043 253	12.36	12 900
Louisiana (west of Mississippi River)	3 681.02	3 360 983 798	41 535 873	913 058	12.36	11 284
Missouri (south of Mo. Pac.)	2 637.25	2 883 214 321	37 788 775	1 093 265	13.11	14 329
Missouri (including C. R. I. & P. and Mo. Pac.)	4 867.09	5 627 783 270	69 859 446	1 156 293	12.41	14 353
Oklahoma	6 233.17	5 466 771 016	71 647 599	877 045	13.11	11 495
Texas	14 538.32	11 806 290 758	165 418 139	812 081	14.01	11 378
*Total	31 383.82	27 997 050 804	371 782 145	892 086	13.28	11 846
Total, including C. R. I. & P. and Mo. Pac. in Missouri	33 613.66	30 741 619 753	403 852 816	914 557	13.14	12 015

C. R. I. & P. and Missouri Pacific operate 2229.84 miles of road in Missouri, of which 580.51 or 26.03% is on or north of the main line of the Missouri Pacific Railroad between Kansas City and St. Louis and 1649.33 or 73.97% south of that line.

*—"Total" and "Total, excluding Illinois" for Western Trunk Line Territory include lines of the C. R. I. & P. and Mo. Pac. in Missouri. "Total"

[fol. 443]

1923

I. C. C. Docket 15234

Average Miles of Road Operated, Tons Carried One Mile, Freight Revenue, Ton Miles per Mile of Road, Revenue per Ton Mile and Freight Revenue per Miles of Road for Class I Railroads in Western Trunk Line Territory and Southwestern Territory

Year Ended December 31, 1923

	Average Miles of Road Operated	Tons Carried One Mile	Freight Revenue	Ton Miles Per Mile of Road	Revenue Per Ton Mile Mills	Freight Revenue Per Mile of Road
Western Trunk Line Territory:						
Illinois	8 715.51	24 275 927 106	$228 306 198	2 785 371	9.40	$26 195
Iowa	10 083.91	10 267 046 394	112 658 791	1 018 161	10.97	11 172
Michigan (Upper Peninsula)	1 542.09	1 279 195 541	14 318 122	829 521	11.19	9 285
Minnesota	7 914.61	9 482 101 196	104 924 110	1 198 050	11.07	13 257
Missouri (on and north of Mo. Pac.)	5 109.96	7 076 909 192	82 623 933	1 384 925	11.68	16 169
Missouri (excluding C. R. I. & P. and Mo. Pac.)	2 877.59	4 645 957 874	52 342 571	1 614 531	11.27	18 190
North Dakota	5 148.21	3 526 110 501	37 495 852	684 919	10.63	7 283
South Dakota	4 234.22	1 688 026 915	19 550 828	398 663	11.58	4 617
Wisconsin	7 162.56	8 853 214 288	96 783 616	1 236 041	10.93	13 512
*Total	49 911.07	66 448 531 133	696 661 450	1 331 339	10.48	13 958
Total, excluding C. R. I. & P. and Mo. Pac. in Missouri	47 678.70	64 017 579 815	666 380 088	1 342 687	10.41	13 976
*Total, excluding Illinois	41 195.56	42 172 604 027	468 355 252	1 023 717	11.11	11 369
Southwestern Territory:						
Arkansas	4 295.77	4 494 510 599	56 297 715	1 046 264	12.53	13 105
Louisiana (west of Mississippi River)	3 557.79	2 906 436 109	39 223 999	816 922	13.50	11 025
Missouri (south of Mo. Pac.)	2 665.95	2 969 250 342	38 379 939	1 113 768	12.93	14 396
Missouri (including C. R. I. & P. and Mo. Pac.)	4 898.32	5 400 201 660	68 661 301	1 102 460	12.71	14 017
Oklahoma	6 272.93	4 938 174 316	65 657 312	787 220	13.30	10 467
Texas	14 609.94	10 125 271 725	144 979 297	693 040	14.32	9 923
*Total	31 402.38	25 433 643 091	344 538 262	809 927	13.55	10 972
Total, including C. R. I. & P. and Mo. Pac. in Missouri	33 634.75	27 864 594 409	374 819 624	828 447	13.45	11 144

*—"Total" and "Total, excluding Illinois" for Western Trunk Line Territory include lines of the C. R. I. & P. and Mo. Pac. in Missouri. "Total" for Southwestern Territory does not include lines of C. R. I. & P. and Mo. Pac. in Missouri.

[fol. 444]

1922

I. C. C. Docket 15234

Average Miles of Road Operated, Tons Carried One Mile, Freight Revenue, Ton Miles per Mile of Road, Revenue per Ton Mile and Freight Revenue per Mile of Road for Class I Railroads in Western Trunk Line Territory and Southwestern Territory

Year Ended December 31, 1922

	Average miles of road operated	Tons carried one mile	Freight revenue	Ton miles per mile of road	Revenue per ton mile mills	Freight revenue per mile of road
Western Trunk Line Territory:						
Illinois	8 726.62	21 186 976 361	$204 312 992	2 427 856	9.64	$23 413
Iowa	10 087.97	9 264 552 986	103 763 434	918 376	11.20	10 286
Michigan (Upper Peninsula)	1 547.20	1 014 603 024	11 965 827	655 767	11.79	7 734
Minnesota	7 881.89	8 230 803 002	96 381 229	1 044 268	11.71	12 228
Missouri (on and north of Mo. Pac.)	5 112.02	6 414 754 084	78 268 808	1 254 837	12.20	15 311
Missouri (excluding C. R. I. & P. and Mo. Pac.)	2 879.61	4 355 856 906	50 673 859	1 512 655	11.63	17 597
North Dakota	5 149.08	2 963 246 360	32 877 726	575 490	11.10	6 385
South Dakota	4 234.20	1 486 032 970	17 927 814	350 960	12.06	4 234
Wisconsin	7 127.43	7 457 308 084	87 029 735	1 046 283	11.67	12 211
*Total	49 866.41	58 018 276 871	632 527 565	1 163 494	10.90	12 684
Total, excluding C. R. I. & P. and Mo. Pac. in Missouri	47 634.00	55 959 379 693	604 932 616	1 174 778	10.81	12 700
*Total, excluding Illinois	41 139.79	36 831 300 510	428 214 573	895 272	11.63	10 409
Southwestern Territory:						
Arkansas	3 993.57	3 494 525 623	45 562 880	875 038	13.04	11 409
Louisiana (west of Mississippi River)	3 678.04	2 564 735 075	35 675 541	697 310	13.91	9 700
Missouri (south of Mo. Pac.)	2 625.88	2 442 350 747	35 124 093	930 108	14.38	13 376
Missouri (Including C. R. I. & P. and Mo. Pac.)	4 858.29	4 501 247 925	62 719 042	926 509	13.93	12 910
Oklahoma	6 338.52	4 411 226 387	63 769 447	695 939	14.46	10 061
Texas	14 473.12	9 004 934 199	136 068 162	622 183	15.11	9 401
*Total	31 109.13	21 917 772 031	316 200 123	704 544	14.43	10 164
Total, including C. R. I. & P. and Mo. Pac. in Missouri	33 341.54	23 976 669 209	343 795 072	719 123	14.34	10 311

*—"Total" and "Total, excluding Illinois" for Western Trunk Line Territory include lines of the C. R. I. & P. and Mo. Pac. in Missouri. "Total" for Southwestern Territory does not include lines of C. R. I. & P. and Mo. Pac. in Missouri.

[fol. 445]

I. C. C. Docket 15234

Average Miles of Road Operated, Ton Miles Per Mile of Road, Revenue Per Ton Mile and Freight

1922, 1923, 1924

Western Trunk Line Territory

Class I Railroads named on Page 6 in Illinois, Iowa, Michigan (Upper Peninsula), Minnesota, Missouri (on and north of Mo.

Year Ended	Western Trunk Line Territory Including C. R. I. & P. and Mo. Pac. in Missouri				Western Trunk Line Territory Excluding C. R. I. & P. and Mo. Pac. in Missou			
	Average Miles of Road Operated	Ton Miles Per Mile of Road	Revenue Per Ton Mile Mills	Freight Revenue Per Mile of Road	Average Miles of Road Operated	Ton Miles Per Mile of Road	Revenue Per Ton Mile Mills	Freight Per R
December 31, 1922.....	49 866.41	1 163 494	10.90	$12 684	47 634.00	1 174 778	10.81	$12
1923.....	49 911.07	1 331 339	10.48	13 958	47 678.70	1 342 687	10.41	13
1924.....	50 026.14	1 253 399	10.48	13 141	47 796.30	1 254 452	10.43	13

Southwestern Territory

Class I Railroads named on Page 6 in Arkansas, Louisiana (West of Mississippi River), Missouri (south of

Year Ended	Southwestern Territory				Southwestern Territory Including C. R. I. & P. and Mo. Pac. in Missou			
	Average Miles of Road Operated	Ton Miles Per Mile of Road	Revenue Per Ton Mile Mills	Freight Revenue Per Mile of Road	Average Miles of Road Operated	Ton Miles Per Mile of Road	Revenue Per Ton Mile Mills	Freight Per R
December 31, 1922.....	31 109.13	704 544	14.43	$10 164	33 341.54	719 123	14.34	$10
1923.....	31 402.38	809 927	13.55	10 972	33 634.75	828 447	13.45	11
1924.....	31 383.82	892 086	13.28	11 846	33 613.66	914 557	13.14	12

I. C. C. Docket 15234

perated, Ton Miles Per Mile of Road, Revenue Per Ton Mile and Freight Revenue Per Mile of Road

1922, 1923, 1924

Western Trunk Line Territory

wa, Michigan (Upper Peninsula), Minnesota, Missouri (on and north of Mo. Pac.), North Dakota, South Dakota and Wisconsin

ory c. in Missouri	Western Trunk Line Territory Excluding C. R. I. & P. and Mo. Pac. in Missouri				Western Trunk Line Terri Excluding Illinois			
le Freight Revenue Per Mile of Road	Average Miles of Road Operated	Ton Miles Per Mile of Road	Revenue Per Ton Mile Mills	Freight Revenue Per Mile of Road	Average Miles of Road Operated	Ton Miles Per Mile of Road	Revenue Per Ton Mile Mills	Freight Revenue Per Mile of Road
$12 684	47 634.00	1 174 778	10.81	$12 700	41 139.79	895 272	11.63	$10 409
13 958	47 678.70	1 342 687	10.41	13 976	41 195.56	1 023 717	11.11	11 369
13 141	47 796.30	1 254 452	10.43	13 083	41 311.56	981 807	11.04	10 835

Southwestern Territory

age 6 in Arkansas, Louisiana (West of Mississippi River), Missouri (south of Mo. Pac.), Oklahoma and Texas

	Southwestern Territory Including C. R. I. & P. and Mo. Pac. in Missouri			
le Freight Revenue Per Mile of Road	Average Miles of Road Operated	Ton Miles Per Mile of Road	Revenue Per Ton Mile Mills	Freight Revenue Per Mile of Road
$10 164	33 341.54	719 123	14.34	$10 311
10 972	33 634.75	828 447	13.45	11 144
11 846	33 613.66	914 557	13.14	12 015

[fol. 446]

I. C. C. Docket 15234

List of Class I Railroads Comprising Western Trunk Line and Southwestern Groups

Western Trunk Line Territory

Illinois:

Atchison, Topeka & Santa Fe
Chicago & Alton
Chicago & Northwestern
Chicago, Burlington & Quincy
Chicago Great Western
Chicago, Milwaukee & St. Paul
Chicago, Peoria & St. Louis
Chicago, Rock Island & Pacific
Illinois Central
Minneapolis & St. Louis
Minneapolis, St. Paul & S. S. Marie
Missouri Pacific
Quincy, Omaha & Kansas City
St. Louis Southwestern
Toledo, Peoria & Western
Wabash

Iowa:

Atchison, Topeka & Santa Fe
Chicago & Northwestern
Chicago, Burlington & Quincy
Chicago Great Western
Chicago, Milwaukee & St. Paul
Chicago, Rock Island & Pacific
Chicago, St. Paul, Minneapolis & Omaha
Great Northern
Illinois Central
Minneapolis & St. Louis
Union Pacific System
Wabash

Arkansas:

Chicago, Rock Island & Pacific
Kansas City Southern
Louisiana & Arkansas
Midland Valley
Missouri Pacific
Missouri & North Arkansas

Michigan (Upper Peninsula):

Chicago & Northwestern
Chicago, Milwaukee & St. Paul
Duluth, South Shore & Atlantic
Lake Superior & Ishpeming
Minneapolis, St. Paul & S. S. Marie

Minnesota:

Chicago & Northwestern
Chicago, Burlington & Quincy
Chicago Great Western
Chicago, Milwaukee & St. Paul
Chicago, Rock Island & Pacific
Chicago, St. Paul, Minneapolis & Omaha
Duluth, South Shore & Atlantic
Duluth, Winnipeg and Pacific
Great Northern
Illinois Central
Minneapolis & St. Louis
Minneapolis, St. Paul & S. S. Marie
Northern Pacific

Missouri (On and North of Mo. Pac.):

Atchison, Topeka & Santa Fe
Chicago & Alton
Chicago, Burlington & Quincy
Chicago Great Western
Chicago, Milwaukee & St. Paul
Chicago, Rock Island & Pacific
Missouri Pacific
Quincy, Omaha & Kansas City
Wabash

Southwestern Territory

Missouri (South of Mo. Pac.):

Kansas City Southern
Missouri, Kansas, Texas
Missouri & North Arkansas
St. Louis-San Francisco
St. Louis-Southwestern

North Dakota:

Chicago & Northwestern
Chicago, Milwaukee & St. Paul
Great Northern
Minneapolis, St. Paul & S. S. Marie
Northern Pacific

South Dakota:

Chicago & Northwestern
Chicago, Burlington & Quincy
Chicago, Milwaukee & St. Paul
Chicago, Rock Island & Pacific
Chicago, St. Paul, Minneapolis & Omaha
Great Northern
Illinois Central
Minneapolis & St. Louis
Minneapolis, St. Paul & S. S. Marie

Wisconsin:

Chicago & Northwestern
Chicago, Burlington & Quincy
Chicago, Milwaukee & St. Paul
Chicago, St. Paul, Minneapolis & Omaha
Duluth, South Shore & Atlantic
Great Northern
Green Bay & Western
Illinois Central
Minneapolis, St. Paul & S. S. Marie
Northern Pacific

Texas:

Atchison, Topeka & Santa Fe
Gulf, Colorado & Santa Fe
Panhandle & Santa Fe
Gulf Coast Lines
Chicago, Rock Island & Pacific

Kansas City Southern
Louisiana & Arkansas
Midland Valley
Missouri Pacific
* Missouri & North Arkansas
St. Louis-San Francisco
St. Louis-Southwestern
Texas & Pacific

Louisiana (West of Mississippi River):

Chicago, Rock Island & Pacific Lines
Atchison, Topeka & Santa Fe
Kansas City Southern
Louisiana & Arkansas
Louisiana Ry. & Nav. Co.
* Louisiana Ry. & Nav. Co. of Tex.
Southern Pacific-Louisiana Lines
** Missouri, Kansas, Texas
Missouri Pacific
Gulf Coast Lines
St. Louis-Southwestern
Texas & Pacific
Vicksburg, Shreveport & Pacific

Missouri, Kansas, Texas
* Missouri & North Arkansas
St. Louis-San Francisco
St. Louis-Southwestern

Oklahoma:

Atchison, Topeka & Santa Fe
Chicago, Rock Island & Pacific
Ft. Smith & Western
Kansas City, Mexico & Orient
Kansas City Southern
Kansas, Oklahoma & Gulf
Midland Valley
Missouri, Kansas, Texas
Missouri Pacific
St. Louis-San Francisco
* Wichita Valley

Gulf, Colorado & Santa Fe
Panhandle & Santa Fe
Gulf Coast Lines
Chicago, Rock Island & Pacific
El Paso & Southwestern
Ft. Worth & Denver City
Galveston, Harrisburg & San Antonio
Houston & Texas Central
Houston East & West Texas
International & Great Northern
Kansas City, Mexico & Orient
Kansas, Oklahoma & Gulf
Missouri, Kansas, Texas
St. Louis-San Francisco
St. Louis-Southwestern of Texas
San Antonio & Aransas Pass
San Antonio, Uvalde & Gulf
Texarkana & Ft. Smith
Texas & New Orleans
Texas & Pacific
Trinity & Brazos Valley
Wichita Valley
* Louisiana Ry. & Nav. Co. of Texas

*—M. & N. A.—L. R. & N. Co. of Texas—Wichita Valley not included in statement for 1922.
**—M. K. T. of Texas in Louisiana not included in statement for 1924.

[fol. 447] Cross-examination:

In the case where divisions were made on Council Bluffs or Omaha or South Omaha, the revenues for the Western Trunk Lines have only been shown on North of Council Bluffs or Omaha. Of Mr. Balch's exhibits, the principal exhibit in which revenue is shown east of Omaha is for the Chicago & Northwestern. The larger proportion of the traffic was interchanged with the Missouri Pacific, which, so far as the information I have indicates, hauled the traffic both North and South of Kansas City. Whether they make any division of revenue in their own accounts I do not know, but it did not seem to us proper to attempt any subdivision of the South-Omaha traffic where it was interchanged there.

The revenue which would be earned by the Missouri Pacific in hauling that traffic from Kansas City to Omaha or Council Bluffs would be revenue properly attributable to the Western Trunk Lines as a group in considering the Western Trunk Line group versus the Southwestern group (Tr. 4641-4642).

Mr. Towner: Well that's a conclusion and I disagree with him. I think that both you and the witness are wrong.

Mr. Outlaw: Well, Mr. Towner, the witness has answered (Tr. 4642).

The figures I gave concerning the amount of increased revenue to the various lines by reason of prior agreements in this case did not include all of the lines in Western Trunk Line territory which participated in the increase, and that is the reason I gave the names of the roads for which I had the figures.

To the extent that any lines are omitted from the computation, the total amount of the loss to other lines contributing this increase is not shown by my figures. I left out the C. M. & St. P. because I could not get the figures. Their Accounting Department was unable to prepare the state-[fol. 448] ment for me. We tried to get them. That line was very active in the transcontinental case, and has offered testimony in the Southwestern phase of the case. I have no figures for either the Rock Island or the Burlington. Those are large lines carrying considerable of this traffic. If I had included these increases, the increase in amount would

have been considerably greater. This is not a case of omission. I got all I could. I would estimate roughly that the Western Trunk Lines as a whole are getting approximately one million and a half dollars revenue out of the settlement of July 1st (Tr. 4643-4644).

In my exhibit A-80 I have excluded in the traffic density figures (page 2) for Western Trunk Line territory, the states of North and South Dakota. Those states have very comparatively light traffic density, particularly South Dakota. There are a few through rates into North Dakota from the Southwest. There are a few, I think, in a portion of South Dakota, east of the Missouri River.

I have examined somewhat the detailed statement put into record by Mr. Balch, covering the month of June 1924. Those exhibits probably show little if anything at all of traffic in North Dakota, and I think there is very little in South Dakota. I think it can be correctly said that it is infinitesimal compared with the whole (Tr. 4644-4645).

I have both included and excluded Illinois, particularly with reference to that part of the territory west of the Mississippi River. The state of Illinois, both because of its large coal traffic and because of the stem line leading out of the large railroad centers into Illinois has traffic density much heavier than that of the states which adjoin it to the West and to the North.

[fol. 449] I doubt if the rate levels in Illinois are lower than in the territory immediately west of it. It varies a good deal, and it is pretty hard to draw an apt comparison, but we at least have one case in which the Commission has fixed a lower level of cement rates in Illinois than in the territory West and Northwest. The original case is Docket 8182, but the decision in which they made that difference was the complaint of the Atlas Portland Cement Company who started, I think, about two years ago. It is not the same docket, but it grows out of that original 8182 investigation.

I would prefer not to attempt to say definitely whether considerably more than half of the business interchanged between the Western Trunk Line and the Southwestern Lines is to or from points in Illinois (Tr. 4645-4646-4647).

The following is quoted verbatim from the transcript of testimony:

By Mr. Muckley:

Q. I just want to ask you this, don't you think it would be fair as long as you have eliminated the ore roads in Minnesota because they don't participate in this traffic, that also North and South Dakota should be eliminated because of the light traffic if any?

A. They have very little relation I think to this proceeding and in my original exhibit I did not include it.

Q. You eliminated it.

Mr. Towner: I again reserve the right to disagree with Mr. Parsons on that (Tr. 4647-4648).

The witness was thereupon excused and the following discussion occurred:

[fol. 450] Exam. Eisque: We are ready for the Southwestern Lines evidence now.

Mr. Larimore: I would like to ask Mr. Towner a question before we proceed.

Mr. Towner: Sure.

Mr. Larimore: Are the Western Trunk Lines advocating a change in the Western division because of the alleged financial necessity of the Western Trunk Lines or the alleged inequalities of the present divisions?

Mr. Towner: Well, it is difficult for me to answer that definitely, but I have an idea that before we get through that both of those things will be important. That would be my guess at this time.

Mr. Larimore: That's all right, I just want to get your viewpoint on that.

Mr. Towner: Well, at this time I think they are both (Tr. 4648-4649).

J. E. Hutchinson was thereupon called as a witness and testified as follows:

Direct examination:

I am Vice President of the St. Louis San Francisco Railway, St. Louis. I have been in the railroad service with the

exception of a brief interval, since I was thirteen years old, and all on the operating side of the work, starting as a messenger boy, a telegraph operator and train dispatcher, chief dispatcher, trainmaster, superintendent of terminal, superintendent, general superintendent, general manager and Vice President. I have been with the Frisco Railroad twenty three years, starting as a trainmaster, and have held successively the positions of trainmaster, superintendent of terminals, Division Superintendent, General Superintendent, General Manager and Vice President. I started [fol. 451] with the Chicago & Alton as a boy, worked for them a good many years, worked on several other railroads for short times (Tr. 4649-4650).

Much of the territory traversed by the Frisco Lines is rough and hilly. That makes for many heavy grades and curves, and which make for difficult and expensive operation. That is particularly true by reason of the fact that most of the heavy grades and curves are on main lines having heavy density. Engines of great tractive effort operated on those lines cannot handle the tonnage trains that they are capable of handling under ordinary conditions on account of having to combat so much grade resistance and curvature (Tr. 4650).

Take for example our first freight train division out of St. Louis to the west, running from St. Louis to Newburg, Mo., a distance of 119 miles. This is a line of heavy density and the preponderance of traffic is eastbound. There are many heavy grades in both directions. Westbound the ruling grade is between Moselle and St. Clair, where the grade is 1.36 per cent. The tonnage rating of an engine of 71,000 pounds tractive effort is only 1,900 tons. Eastbound there are at least fifteen grades of 1 per cent or more, the ruling grade of 1.37 per cent being between Newburg and Rolla. At this point we provide helper engine service for through freight trains between Newburg and Dillon, a distance of about 13 miles, the grade between Newburg and Rolla being 1.37 per cent and between Rolla and Dillon 1.18 per cent. At this point we also provide helper service for some through passenger trains eastbound between Newburg and Rolla. The rating of an engine of 71,000 pounds tractive effort from Newburg to St. Louis is 1,850 tons without helper service and 2,900 tons with helper service

[fol. 452] between Newburg and Dillon. Over a reasonably level track there is no reason why an engine of 71,000 pounds tractive effort should not be able to handle more than twice that tonnage (Tr. 4651).

At times, during periods of heavy rains, the Meramec River, which we cross at three places between St. Louis and 45 miles west thereof, overflows, causing much damage to our tracks and other property in that territory. In August, 1915, when we had continued heavy rains the River Des Peres at St. Louis and the Meramec River overflowed and many miles of our tracks at different places were under water anywhere from one to twelve feet. At several points the tracks were completely washed off the dump. The repair damage alone was in the neighborhood of $30,000.00, saying nothing about the loss in gross revenue, as a result of having the main stem of an important main line out of commission for a long time.

On the freight train division between Newburg, Mo., and Springfield, Mo., a very heavy density line, we cross the Ozark Mountains and have a number of grades in excess of 1 per cent, even many in excess of 1.5 per cent; in fact between Jerome, which is about 5 miles west of Newburg, and Dixon, a distance of 10 miles, we rise 495 feet and encounter a grade of 2.3 per cent westbound. Between Newburg and Dixon we provide helper service for all through freight trains and some through passenger trains. Up to a few years ago we were required to provide helper engine service over the Dixon Hill for all through passenger trains. In the last two years, however, we have acquired some extraordinary heavy mountain type passenger engines for use on some through passenger trains on this division, which can make the grade over Dixon Hill without a helper engine. Over this division a 71,000 pound tractive effort engine carries a rating of only 1,200 tons [fol. 453] single and 2,050 tons with helper service over Dixon Hill (Tr. 4651-4652).

On freight train division from Springfield, Mo., west and south to Monett, Mo., heavy grades are not so much in evidence, although there are some in excess of 1 per cent in both directions. Here, however, we are confronted with much difficulty in having to cross a few small streams,

which, being very shallow and practically dry in dry seasons of the year, are very treacherous in times of heavy rains. They seem to go on a rampage after every heavy rain, causing much damage to roadbed and track. This is particularly true of Spring River, which we cross on this line at or near Verona, Mo., 274 miles west of St. Louis (Tr. 4652-4653).

What I have just said about the line from Springfield to Monett is true also of the line from Monett to Sapulpa, Okla., except that there the situation with respect to treacherous streams, floods and washouts is much worse. Between Monett and Neosho, a distance of 28 miles, we cross Shoal Creek and its tributaries no less than 16 times. Almost any heavy rain in this territory causes serious overflow of these streams, resulting in serious washouts of roadbed and tracks. The line is often out of commission for weeks at a time, necessitating long detours and expensive delays to traffic. We have spent hundreds of thousands of dollars not only in repair of flood damage, but in our efforts to overcome the flood damage by raising grades, relocation of line, etc. We have many times felt that we had controlled the situation, but have just as many times met with disappointment since there is a recurrence of [fol. 454] these floods every so often, regardless of our efforts and expenditure of vast sums of money to avoid them. Just west of Vinita, Okla., where we cross the Big Cabin Creek, we have much damage, expense and delay by reason of floods. From the standpoint of grades, this line between Monett, Mo., and Sepulpa, Okla., is not as difficult to operate as the line between St. Louis and Springfield, but it has many grades in excess of 1 per cent nevertheless. For example, west out of Neosho, Mo., we have a 1.25 per cent grade for a distance of about three miles, which makes for considerable reduced train tonnage in that direction, by reason of trains stopping at Neosho having to begin climbing from the very start and having no momentum as an aid in carrying them over the hill. We have practically the same situation out of Tulsa eastbound with a 1.11 per cent grade. It is often necessary for switch engines at that point to assist trains out of the yard (Tr. 4653-4654).

The characteristics of the other major lines of the Frisco in Central and Western Oklahoma are much the same as

those of the line between Monett, Mo. and Sapulpa, Okla., particularly as to the crossing of streams and flood conditions. On the line between Sapulpa and Oklahoma City the most troublesome streams we cross is the North Canadian River and that we cross twice, once near Junes, Okla., 18 miles east of Oklahoma City and once right at Oklahoma City. Between Oklahoma City and Quanah, Texas, the more important streams we cross are the South Canadian River near Mustang, the Salt Fork near Olustee and Red River near Quanah, Tex. Between Sapulpa, Oklahoma, and Sherman, Texas, we again cross the North Canadian at a [fol. 455] point between Wetumka and Weleetka and the Red River near Denison, Texas. In Western Oklahoma on the line from Beaumont Junction, Kansas, south through Enid and Snyder, Okla., to Quanah, Texas, we have considerable flood damages from the overflow of the following streams: The Walnut River at Winfield, Kansas; the Arkansas River at Arkansas City, Kansas; the Chickasha River at Blackwell, Okla.; the Salt Fork Creek at Salt Fork, Okla.; the Cimarron River at Ames, Okla.; the North Canadian River between Carleton and Eagle City, Okla.; the South Canadian River at Fay, Okla., and the Red River north of Vernon, Texas. We cross many other streams in this territory, but those I have mentioned are the most treacherous and cause the most damage in case of heavy rains. The streams are all of the same character—they are very shallow with sandy beds. We have spent large sums of money in an effort to avoid or minimize the damage from the overflow of these streams, but to no avail. Control of these streams seems to be out of the question. In flood periods they often change their course, thus augmenting the damage to property caused by the ordinary overflow.

In view of the streams which I have mentioned being small, they look innocent, and would go almost unobserved in dry weather. My statements with respect to their destructibility may seen strange, but I am prepared to say that they are a real menace. It is not only the damage to our property that causes us so much concern, but also the fact that parts of our lines are out of commission for weeks at a time, necessitating detours where possible, delay to traffic and diversion of traffic to other roads, etc. In this connection, I may mention as an example our experience

with floods in this and other territory during the year 1923. During the months of May and June and again during September, October and November, 1923, floods re-
[fol. 456] sulting from heavy rains entailed an extraordinary expense to the Frisco approximating $600,000.00. In many instances roadway, bridges and other structures, heavily damaged in May and June, after being repaired or replaced, were again completely wrecked in September, October and November. The flood condition prevailed over practically the entire line, but by far the heaviest damage occurred in Southwest Missouri, Oklahoma and Kansas. In addition to the great expenditures in repair of the flood damages we suffered a loss in gross revenues of fully $3,000,000.00 by reason of our inability to operate over many parts of our line for long periods at a time, necessitating diversion of traffic to other roads (Tr. 4654-5655-4656).

I will now refer to conditions on our line from Kansas City of Afton, Okla., where at the latter point, we connect with the main line between Monett, Mo. and Sapulpa, Okla. In comparison with some other main lines the grades on this line are not so numerous nor as steep, although there are some in excess of 1 per cent. Out of Ft. Scott northbound, we find it necessary to furnish helper engine service to through freight trains for a distance of 7 miles in order to realize a better train tonnage in the direction of volume, the preponderance of traffic being northbound. The traffic on this train division is unbalanced, being approximately 3 to 1; that is, three times as great northbound as southbound, and the cost of operation is high, considering the density. If it were not for the unbalanced traffic, the cost on this division should be fairly low. We here also have disastrous floods, since we cross certain streams principally among which is the Marias de Cygnes, which we cross twice, once at a point 61 miles and again at a point 67 miles south of Kansas City. The distance from Monett, Missouri to Paris, Texas is 302 miles. The line from Monett, Mo. south through Ft. Smith, Ark., to Paris, [fol. 457] Texas, shows a very high operating cost for several reasons. First, on account of the extreme heavy grades and second, on account of thin traffic. Between Monett, Mo. and Ft. Smith, Ark. we again encounter the

Ozark Mountains and we have extremely heavy grades in both directions. From Ft. Smith northbound to Winslow, Ark., a distance of 41 miles, we rise from 423 feet to 1,729 feet above sea level, or 1,306 feet. We reach the peak at Winslow where we have a 2.45 per cent grade northbound and 1.44 per cent southbound. Northbound we furnish helper engine service to all trains, through and local freight and passenger, between Chester and Winslow, a distance of about 11 miles. Between Ft. Smith, Ark. and Paris, Texas we have very much the same situation as between Monett and Ft. Smith—there are heavy grades in both directions. On this division, right at the Arkansas-Oklahoma State Line we have a 1.63 per cent grade southbound and 1.08 per per cent grade northbound. The peak is reached on Winding Stair Mountain between Talihina and Compton, Okla., about 63 miles south of Ft. Smith, where the southbound grade is 2.41 per cent and the northbound grade 2.27 per cent. At this point we find it necessary to furnish helper engine service to all freight trains, both north and south bound. The Red River, which we cross on this line near Arthur City, Texas, is very troublesome and the source of a vast expenditure of money in an effort to control its ever changing channel. In the year 1903, when the river was eating its way into the Texas side of the bank, we spent in the neighborhood of $55,000.00 on rip rap and retaining walls. By 1915, the river had made such further inroads into its bank that we found it necessary to extend the retaining walls at an additional expenditure of $45,000.00. [fol. 458] At this date we are again confronted with a further extension of the retaining walls which will mean the expenditure of much money. Sooner or later the river will cut through and we will then be compelled to build a new bridge at the expenditure of perhaps half a million dollars. The bridge now there will then be on dry land and worthless (Tr. 4657-4658).

I call attention to the line from Ft. Scott, Kansas, southeast through Springfield, Mo. to Memphis, Tenn. The freight train division between Ft. Scott and Springfield is very rough and full of heavy grades in both directions. Right at Ft. Scott on this line we find it necessary to help through freight trains into and out of the yard for a distance of 4 miles. Grades of 1 per cent. and over are very

common on this line. At Emmet, about 25 miles north and west of Springfield, we have a long grade northbound of 1.62 per cent and southbound of 1.5 per cent. On the freight train division between Springfield and Thayer, Mo., we again cross over the Ozark Mountains. We have here many long, heavy grades. At short distance out of Springfield near Turner we have a 1.41 per cent grade southbound and also northbound. Near Whetsone Doubling the grades are 1.62 northbound and 1.67 per cent southbound. There are many other long grades in excess of 1.5 per cent. There is a rise from 518 feet at Thayer to 1,675 feet at Cedar Gap, or 1,157 feet in a distance of 96 miles. Between Springfield and Cedar Gap we rise 425 feet in a distance of 41 miles, Springfield being 1,251 feet and Cedar Gap 1,675 feet above sea level. The maximum trainload an engine of 71,000 pounds tractive effort can handle over this division is 1,750 tons southbound and 1,600 tons northbound. Over [fol. 459] reasonably level track an engine of that size could handle several times that tonnage on a trip. Between Thayer and Memphis we get into the Mississippi Valley and heavy grades are not much in evidence. Here an engine of 71,000 pounds tractive effort is rated at 3,200 tons southbound and 3,150 tons northbound. This line, however, is subject to the Mississippi River floods, which are disastrous. I have seen this line flooded from Memphis to 52 miles west thereof (Tr. 4659-4660).

Our main line along the Mississippi River between St. Louis and Memphis, or rather between Southeast Junction about 7 miles west of St. Louis, where it joins the main line between St. Louis and Springfield, and Turrell, Ark., where it joins the main line between Kansas City and Memphis, is fairly level and free of heavy grades, with the exception of the 33 miles between Southeast Junction and Crystal City on which there are heavy grades and where we furnish helper engine service to local and through freight trains in both directions. Those parts of the line between Crystal City and Chaffee, 104 miles, and between Conran, which is 49 miles south of Chaffee, and Turrell, 90 miles, are subject to the Mississippi River floods, the same as the line between Memphis and Thayer. We have raised our tracks several feet at different points and otherwise spent and contributed large sums of money toward the prevention of those floods,

but our efforts have not been fully rewarded. We have absolutely no assurance that those floods will not recur again. Going back several years, I want to say that we had Mississippi River floods in the years 1912, 1913 and again in 1922. As an example of what these floods mean in the destruction [fol. 460] of property, restoration expense and loss of great revenue, I shall make brief reference to the flood of 1912. In that year the stage of water in the Mississippi River averaged five feet above previous flood records and in consequence the protection levee broke at a point opposite Portageville, Mo., on March 24th. Subsequent breaks below that point and above Memphis, Tenn., put 153 miles of our track in Missouri and Arkansas out of commission, breaking the important main lines between St. Louis and Memphis, and between Kansas City and Memphis. These lines were not restored for service until May 10th of that year. The restoration cost was in the neighborhood of $400,000.00. The loss in gross revenue resulting from having two heavy density main lines out of commission for more than six weeks can be imagined. It is my opinion that the loss in revenue to the Frisco amounted to in excess of a million dollars.

It is my understanding that our line between Memphis and Birmingham is not involved in this proceeding, and I will, therefore, not go into the matter of characteristics of road as applying to that line. So far as this case is concerned, believe I have covered all of our major lines. Perhaps I have gone into more detail than I should have, but it was my purpose to make clear to the Commission our operating diffi*d*ulties in this territory (Tr. 4660-4661).

I will now refer briefly to branch line operation as compared with main line operation. Much of the Frisco mileage is represented by branch lines (about 40 per cent). Practically all of our branch lines are lines of light traffic and the cost of operation is very high. That is due to the inability of reducing train service consistent with the volume of business. In reducing train service on branch lines you reach an irreducible minimum beyond which you cannot go and which you are compelled to furnish whether [fol. 461] the business offered justifies it or not. I will give a few illustrations of how branch line operations affect your train loading and unit cost of the system as a whole. Take

our River Division for example, which is the main line and branches along the Mississippi River between St. Louis and Turrell, Arkansas, about 22 miles west of Memphis. Much of the mileage of this division is represented by branch lines. For the year 1924 the freight train performance on the main line of this division was as follows: Gross tons per train 1,576; net tons per train 734; wages of train and enginemen per 1,000 gross ton miles 31 cents and per 1,000 net ton miles 66 cents. For the branch lines the *permance* was: Gross tons per train 446; net tons per train 194; wages of train and enginemen per 1,000 gross ton miles $1.62; and per 1,000 net ton miles $3.73. For the division as a whole the performance was as follows: Gross tons per train 1,215; net tons per train 561; wages per 1,000 gross ton miles 46 cents and per 1,000 net ton miles $1.00. For the Central Division, which is a heavy grade and light traffic line from Monett, Mo. south through Ft. Smith, Ark. to Paris, Texas, with a few branches in Arkansas and Oklahoma, the freight train performance for the year 1924 was as follows: Main line—gross tons per train 832; net tons per train 354; wages of train and enginemen per 1,000 gross ton miles 52 cents, and per 1,000 net ton miles $1.21. Branch lines—Gross tons per train 474; net tons per train 200; wages per 1,000 gross ton miles $1.15 and per 1,000 net ton miles $2.73. These illustrations will serve the purpose of showing how branch line operations and operations on lines of light traffic and heavy grades affect train loading and unit costs (Tr. 4662-4663).

[fol. 462] For the Frisco System as a whole the freight train performance separately for main and branch lines, for the year 1924 was as follows: main lines—gross tons per train 1,251; net tons per train 527; wages of train and enginemen per 1,000 gross ton miles 35 cents and per 1,000 net ton miles 83 cents. Branch lines—gross tons per train 433; net tons per train 184; wages per 1,000 gross ton miles $1.44 and per 1,000 net ton miles $3.40. Main and Branch Lines combined—gross tons per train 1,173; net tons per train 495; wages per 1,000 gross ton miles 39 cents and per 1,000 net ton miles 93 cents. I want to say in connection with these figures that the separation as between main and branch lines is not entirely accurate, as there are certain lines that were included as main lines that should have been

treated as branch lines, but the figures had been so compiled and I was unable to make the rearrangement. I merely offered them here to show in a large way how lines with heavy grades, lines of light tonnage and branch lines affect your train loading and unit cost, and they serve that purpose very well (Tr. 4663-4664).

I am informed that at the November hearing of this case in Chicago witnesses for the Western Trunk Lines testified that in the past ten years or so they had expended large sums of money in the improvement of their properties, increased the tractive effort of engines, increased their train loading and otherwise realized many and substantial economies in operation. In that, of course, the Western Trunk Lines do not stand alone. The lines in the southwest have also made great strides forward in that direction. Speaking for the Frisco, I want to say that in the past 10 years, and particularly in the past 5 years, we have incurred large expenditures in the improvement of our property. We did [fol. 463] extensive work in ditching and bank widening, filling of temporary trestles, ballasting, laying of heavier rail, building heavier bridges, extending and building new mechanical, station and yard facilities, constructing second main line tracks and made many other improvements all in the interest of greater safety, and more efficient and economical operation. We completely rebuilt thousands of our freight cars and many of our passenger cars. In addition we purchased much new equipment—locomotives of greater tractive effort and freight cars of greater loading capacity. A list of new equipment acquired since 1916 is as follows: 163 freight engines with an average tractive effort ranging from 51,500 to 71,480 pounds; 7 switch engines; 30 heavy mountain type passenger engines, 4,700 box cars of 80,000 pounds capacity; 2,500 coal cars of 100,000 and 110,000 pounds capacity; 300 stock cars; 28 passenger train cars; 3 gasoline electric motor cars and some coaling cranes, pile drivers and derricks. In addition we contracted for new equipment for delivery in this year as follows: 15 heavy freight engines; 10 mountain type passenger engines; 2,500 50-ton box cars; 1,000 50-ton automobile cars; 500 55-ton coal cars and 14 all steel coaches (Tr. 4664-4665).

While additions and improvements to the fixed property were substantial, still greater improvement work should

have and could have been carried on had the earnings justified. That is particularly true in the matter of second track work, elimination of grades and curves and the extension of terminals. That work requires the expenditure of vast sums of money and we have not been able to carry it on as extensively as the necessity for it justified, by reason of the lack of earnings. Those improvements can only be undertaken from time to time in the future as the earnings permit (Tr. 4665).

[fol. 464] I desire to refer briefly to the increased efficiency and economies which we have realized on the Frisco in the past few years. Increased freight train loading, when not interfering with getting trains over the road, as we all know, is an important factor in reducing operating costs. On the Frisco we have had a substantial increase in the loading of freight trains as indicated by the following gross and net tons per train: Gross tons per train: 1916, 912; 1921, 976; 1924, 1,173; 11 months ended November 30, 1925, 1,258—increase in the eleven months ended November 30, 1925, over the year 1916 of 346 tons, or 38 per cent. This in the light of an increase in tractive effort of engines of approximately 20 per cent. The net tons per train compare as follows: 1916, 408; 1921, 416; 1924, 495; 11 months ended November 30, 1925, 514. This increase in train loading was accomplished with a reduction in the overtime of freight trainmen and enginemen. The percentages of overtime wages to total wages for the several years are as follows: 1916, 21.34 per cent; 1921, 17.57 per cent; 1924, 15.86 per cent; 11 months ended November 30, 1925, 13.76 per cent (Tr. 4666).

The pounds of fuel consumed per 1,000 gross ton miles decreased from 233 pounds for the year 1916 to 184 pounds for the eleven months ended November 30, 1925. The wages of freight trainmen and enginemen per 1,000 gross ton miles for 1916 are not comparable with similar figures for the later periods, on account of the figures for the later periods reflecting an increase in wage of about 90 per cent, but the figures for the four periods are as follows: 1916, 32c; 1921, 50c; 1924, 40c; 11 months ended November 30, 1925, 38c. Giving consideration, however, to the 90 per cent increase in wages the better performance becomes apparent. The average miles per freight car per day in-

[fol. 465] creased from 24.99 miles in 1916 to 31.12 miles in the eleven months ended November 30, 1925, or 24.5 per cent (Tr. 4666-4667).

We have for some years past carried on an extensive campaign in the matters of safety and claim prevention. That our efforts have been regarded is evidenced by the comparisons of personal injury claim and loss and damage claim payments for the 7 years ended June 30, 1916, with the similar payments for the year 1924, as follows: Injuries to persons in the Maintenance of Way and Structures group per $100.00 of Maintenance of Way and Structures expenses, amounted to 75 cents for the seven year period and 63 cents for the year 1924. Injuries to persons in the Maintenance of Equipment group per $100.00 of Equipment repair expenses amounted to 89 cents for the seven year period and 86 cents for the year 1924. Injuries to persons in the Transportation group per $100.00 of Transportation expenses amounted to $2.97 for the seven year period and $2.14 for the year 1924. Loss and damage freight per $100.00 of freight revenue amounted to $1.59 for the seven year period and $1.07 for the year 1924.

Combined for all personal injury accounts and less and damage freight, the cost per $100.00 of gross revenue was $2.35 for the seven year period and $1.72 for the year 1924, a decrease of 63 cents, or 26.8 per cent. In passing, I may mention the fact that our Loss and Damage Freight Account for the eleven months ended November 30, 1925, amounted to 74 cents per $100.00 of freight revenue to compare with the $1.59 for the period of seven years ended June 30, 1916, and the $1.07 for the year 1924. That, in my opinion, is a remarkable showing, particularly when considering the fact that commodity prices increased substantially more than did freight rates. Passenger traffic, [fol. 466] as we all know, is declining. The passenger miles per mile of road are as follows: 1916, 113,292; 1917, 138,105; 1921, 118,167; 1922, 104,423; 1923, 112,569; 1924, 101,865. The year 1925 will show a lesser passenger density than the year 1924 (Tr. 4667-4668).

I desire to give our transportation ratios and the total operating ratios for the several years past, since they reflect all of the matters to which I have referred above. I will not include the year 1916, because the operating ex-

penses since the year 1916, by reason of increased wage rates and increased prices of materials and supplies, increased so much more than did the revenues. The increases in wage rates and material prices were substantially greater than the increases in freight and passenger rates, and, therefore, the transportation and operating ratios for the year 1916 would not be comparable with the ratios of the later years.

The ratio of the cost of conducting transportation to revenue for the several years past are as follows: 1921, 38.69 per cent; 1922, 38.12 per cent; 1923, 35.75 per cent; 1924, 34.08 per cent; 11 months ended November 30, 1925, 33.73 per cent. The total operating ratios are: 1921, 74.63 per cent; 1922, 75.53 per cent; 1923, 73.64 per cent; 1924, 70.92 per cent; 11 months ended November 30, 1925, 69.70 per cent. The year 1922 was the year of the Shopmen's strike on the Frisco (Tr. 4669).

In conclusion I want to say that in spite of all the improvements and additions made to the property, the added equipment, the greater efficiency and economies in operation to which I have referred, and there are many others, the Frisco has never yet earned a fair return on its investment. Furthermore, our rate of return on investment is today but slightly greater than it was ten years ago. Our [fol. 467] rates of return on investment for the years 1916 and 1917, and the several years past, are as follows: 1916, 4.28 per cent; 1917, 4.35 per cent; 1921, 4.34 per cent; 1922, 3.76 per cent; 1923, 4.34 per cent; 1924, 4.82 per cent (Tr. 4669).

In connection with my testimony on grades and curves, I desire to offer an exhibit containing statement showing characteristics of road of St. Louis-San Francisco Railway Lines as of April, 1917, and statement showing the degrees of curvature by sub-divisions and operating divisions of the St. Louis-San Francisco Railway Company. There has been some little grade reduction and straightening of curves work on the road since April, 1917, but not a very large amount. The statement referred to by the witness was thereupon offered in evidence as exhibit A-81 (Tr. 4670).

(Exhibit A-81 was received in evidence.)

[fol. 468] Cross-examination:

Starting with St. Louis and going to Texas, we have practically two routes to Fort Worth. The route that we use most for freight traffic is the line through Springfield, Monett, Sapulpa, Denison and Sherman. From Kansas City, the Fort Scott line direct to Afton, through Girard, Cherokee and Columbus. That is the main line from Kansas City, then on through Sapulpa, Sherman and Denison. Starting at Kansas City, coming down through Fort Scott, then Springfield, and then there is just one main line, Springfield to Memphis. The line from Kansas City through Harrisonville from Clinton and then to Springfield is a branch line. The Frisco has now taken over what is known as the Kansas City, Clinton & Springfield, that is a third line practically between Kansas City and Springfield. It is also a very light branch line.

The line extending from Paris north through Fort Smith, Arkansas, to Monett, is used for some fast freight traffic, but it is not a heavy line at all for through business. I guess you would have to consider it as a main line and yet it is not a heavy main line. It is a light main line. The line from St. Louis coming down the Mississippi River to Memphis is a main line. The other lines, outside of those that I have mentioned as main lines, constitute the 40 per cent of our lines which is branch line. There is still a little line that would be called main line other than that I have mentioned, that is the line from Sapulpa to Oklahoma City. That is a pretty good line; doubtless would be classed as a main line. Then there is a line from Tulsa to Enid that I guess they would class as main line. I did class it as such in arriving at the 40 per cent branch line (Tr. 4670-4671-4672).

[fol. 469] Attorney Towner thereupon asked the witness if he could arrange to let him have a profile of the various lines of the Frisco showing grade percentages, and length of the grade. Mr. Press said that he had a copy but did not want to introduce it.

There followed a controversy between Attorney Towner and Attorney Roberts, during the course of which Attorney Roberts offered a copy of the profile to Attorney Towner but refused to introduce it in evidence, saying that he would

try the case in his own way, and that Attorney Towner could introduce the profile if he desired to do so (Tr. 4673-4674).

Referring to Exhibit A-81, taking for example, the first mileage shown from St. Louis to the south bank of the Red River of 717 miles and the length of the straight line, slightly over 508 miles, the 508 miles is not an absolutely straight mileage without any curve in it. Any deviation from the tangent I would consider is a curve. I assume that that is the number of miles of curved and the number of miles of straight line between those points. I don't know whether or not that is a fact. I never measured the mileage. I have been over it a good many hundreds of times but I never measured it.

Q. Well, let's go across to where you show the grades. Now you show the length of level line out of that approximately 717 miles of 105 miles. Is that 105 miles of railroad that has no rise nor fall in it?

A. I assume that is what that "length" means, yes.

Q. Now you have six hundred and some odd miles of grades. Now what have you considered to be a grade in getting up these figures, any deviation from a perfectly flat level?

A. Well, I am not certain.

[fol. 470] Q. For example, if you had a half mile grade three tenths of one per cent, it would be in this sum of ascents, would it not?

A. I am not certain what was considered in making this up. In speaking of a grade we generally do not refer to anything less than three and sometimes four tenths, but I am not certain.

Q. You don't know whether that rule was followed here or not?

A. No, I am not sure (Tr. 4675-4676).

The wording would indicate that the ascents and descents would include any deviation from a perfectly straight line. I am unable to say, because I know that railroad people generally in talking of grades consider three tenths of one per cent of grade as a level piece of track and some even consider four tenths of one per cent as level. I don't know whether that rule is applied to this or not. That applies

to all of the figures with respect to grades and alignment on the first page of Exhibit A-81. I would say the same thing with respect to the figures on page 2. I don't know whether or not the curves represented on page 3 show every deviation from a perfectly straight line. The statements were made by our Accounting and Engineering Departments (Tr. 4676-4677).

The improvements in operation which I have referred to have not been steady, ever since I have been with the property. We had an awful setback during the period of federal control and the strike in 1922 gave us a little of a set back too, so it has not been steady. With the exception of the strike period in 1922, there has been a steady improvement since the roads were turned back in 1920. We have spent quite a good deal of money in the way of flattening out grades and straightening track and improving operating conditions generally. That has helped to reduce our operative cost. We are doing some of this work every year, and it is being vigorously prosecuted at this time (Tr. 4679). [fol. 471] We have some dreams for the future along that line. I don't know whether you would quite call it a program or not. We have a total budget of something like twenty million dollars for this year, a little over half of which is equipment. We will probably spend about seven million dollars in improvements of the nature referred to this year. That money is supposed to be available. We hope that the expenditure will substantially decrease our operating costs; that is what we are spending it for. We have had a steady decline in transportation and operating ratios over the period that I referred to in my direct testimony. I have some very grave doubts about further reducing those. I am leaving here to attend a meeting in Chicago that contemplates about a seventeen per cent increase in wages for trainmen and enginemen. If that is met, I think we will go the other way pretty rapidly. The proposed increase is applicable all over the United States so far as I know. I assume it will cover the western territory equally (Tr. 4678-4679-4680).

We did fairly well as to operating ratio for the first eleven months of 1925. The operating ratio of 69.3 is arrived at by taking all the expenses down to the payment of interest, that is as related to our revenue. That's the per

cent of the gross revenue that it took to operate the property without paying any interest or dividends or anything else. It does include taxes. The eleven months that those figures contemplate were free of flood damage. In 1925 we had none. We had some slight flood damage in 1924 but no heavy. We have had no heavy flood damage since 1923.

The operating expenses that I considered in getting at our operating and transportation ratio include all the items of expense about which I have testified in some detail. It does not include additions and betterments (Tr. 4680-4681).

[fol. 472] Here Attorney Towner asked the witness whether or not he was familiar with the operating conditions in Western Trunk Line territory along the line of flood conditions. Attorney Roberts objected to the question on the ground that this was not within the scope of the direct testimony of the witness. After discussion the examiner ruled that the question about all the Western Trunk Line territory was a little broader than the direct testimony of the witness. Attorney Towner then said that he would confine the question to the territory between St. Louis and Kansas City and between Chicago and the Missouri River. Attorney Roberts again objected because the question did not relate to anything the witness had testified about on track. Attorney Towner thereupon withdrew the question (Tr. 4681-4682-4683).

The Witness, continuing: I am unable to say whether the flood damage on the Frisco is any greater than the conditions obtaining in Western Trunk Line territory. I don't know much about the conditions on other roads. I have been pretty busy on the Frisco for the last two or three years.

Attorney Roberts here objected for the reason that the same question was being asked in different form.

Mr. Towner: What was your answer to that question?

(The Reporter thereupon read the last answer shown by the record.)

The Witness: No, no; I said I had been pretty busy on the Frisco for twenty three years and that is all the answer I made.

Q. Well that was your answer anyway for the purposes of this contention between Mr. Roberts and myself?
A. That is true (Tr. 4683-4684).

[fol. 473] We expect to spend a little more than ten million dollars in 1926 on the purchase of equipment I think. I suppose that the expectation of increased traffic has something to do with it, and to increase our train loading will decrease our operating cost if we can. Cars are heavier and more modern cars in the hopes of an increasing volume of business. We don't know whether we will get any increased business or not (Tr. 4684-4685).

J. P. COWLEY was thereupon called as a witness and testified as follows:

Direct examination:

I am Assistant to the General Manager of the G. C. & S. F. Railway, and have held that position since January 1, 1921.

Prior to that time my operating experience extended over a period of twenty two years with the G. C. & S. F. Railway. During that period I held various clerical positions, Chief Clerk to Superintendent, Chief Clerk to the Vice President and General Manager, Transportation Inspector and Trainmaster (Tr. 4685-4686).

I have had prepared a map of the Gulf Colorado & Santa Fe Lines (Tr. 4686).

The map referred to by the witness was thereupon offered in evidence as Exhibit A-82.

(Exhibit A-82, a map showing the location of the Gulf, Colorado and Santa Fe lines was received in evidence.)

The map is of the Gulf, Colorado and Santa Fe Railway Company's lines, owned, leased and operated. The portion of the line in red coloring represents main line and that portion in yellow coloring represents branch lines, in accordance with our reports to the Interstate Commerce Commission. The small green lines shown in three separate places designate helper districts. The line from Pauls Valley to Shawnee, Pauls Valley to Lindsay and Davis to Sul-

phur are operated for the account of the A. T. & S. F. Rail-
[fol. 474] way. That property is owned by the A. T. & S. F. and the results of operation so far as accounts are concerned are carried in the A. T. & S. F. accounts, but as a practical operating matter it is within the jurisdiction of the G. C. & S. F. (Tr. 4686).

The next exhibit which I offer is a condensed profile of the Gulf, Colorado and Santa Fe Railway Company, a single track railroad, together with its leased and operated lines. The yellow lines shown on the profile denote the helper districts. Due to the rolling and broken contour of most of the country traversed by the Gulf, Colorado and Santa Fe Railway heavy grades are required to surmount hills at irregular intervals, which, although covering a comparatively small percentage of the total mileage, rule the tonnage rating of the motive power and force the operation of lighter tonnage trains, use of heavier power, doubling of hills or helper service (Tr. 4687).

The profile referred to by the witness was thereupon offered in evidence as Exhibit A-83.

(Exhibit A-83 was received in evidence. It is a condensed profile of the Gulf, Colorado & Santa Fe Railway and is described by the witness.)

Of the 1,126 miles of main track 200 miles, or 17.8 per cent, are on curves, ranging from one degree to eight degrees and thirty minutes curves having a total central angle of 22,515 degrees or approximately 20 degrees per mile. This high percentage of curves tends to produce high maintenance and operating costs (Tr. 4687).

The next exhibit consisting of five sheets shows the location of grade revisions and changes of line during the years 1905 to 1909 inclusive, 1910 to 1914 inclusive, and 1920 to 1924 inclusive. The exhibit is self explanatory (Tr. 4688). [fol. 475] I believe that the exhibit is self explanatory (Tr. 4688).

The exhibit referred to by the witness was thereupon offered in evidence as exhibit A-84.

(Exhibit A-84 was received in evidence.)

[fol. 476] The next exhibit of five pages shows the length and character of new and improved ballast replaced dur-

ing years 1905 to 1909 inclusive, 1910 to 1914 inclusive, 1915 to 1919 inclusive, and 1920 to 1924 inclusive. The exhibit is in such detail that further explanation would seem to be unnecessary (Tr. 4688).

The exhibit referred to by the witness was thereupon offered in evidence as exhibit A-85.

(Exhibit A-85 was received in evidence.)

[fol. 477] I have an exhibit consisting of four sheets showing new and improved bridges years 1905 to 1909 inclusive, 1910 to 1914 inclusive, 1915 to 1919 inclusive, and 1920 to 1924 inclusive. The exhibit is self explanatory (Tr. 4689).

The statement referred to by the witness was thereupon offered in evidence as Exhibit A-86.

(Exhibit A-86 was received in evidence.)

[fol. 478] The next exhibit shows miles of rail in track on the Gulf Lines as of January 1st, 1905 and improvements for each five year period thereafter. For example we had 23 plus 1,945 miles of 90 pound rail in 1905, and in 1925 we had 959 plus 1,701 feet.

Commencing with the year 1926 the standard weight of rail to be used in renewals for the portion of the line betweeen Somerville and Gulf Junction has been increased from 90 to 110 pounds. It is the intention during 1926 to relay 28 miles of main track between Cameron and Temple with 110 pound rail, releasing 90 pound rail (Tr. 4689).

The statement referred to by the witness was thereupon offered in evidence as Exhibit A-87.

(Exhibit A-87 was received in evidence.)

[fol. 479] My next exhibit shows the amounts charged to Additions and Betterments during the 20 year period ended December 31st, 1924, in five year periods. The total expenditures for the twenty years amounted to $23,416,735.34. The figures were taken from the annual reports made to the I. C. C.

The statement referred to by the witness was thereupon offered in evidence as Exhibit A-88.

(Exhibit A-88 was received in evidence.)

[fol. 480] The next exhibit which shows the date, location and nature of improvements on account of various floods and washouts during the years 1900 to 1925 inclusive. The total cost of the improvements shown in the exhibit amounted to $2,130,288.00 (Tr. 4690).

The statement referred to by the witness was thereupon offered in evidence as Exhibit A-89.

(Exhibit A-89 was received in evidence.)

The Santa Fe lines, constructed along and across some of the principal rivers of the South and lying in part in the low Coast country of the Gulf of Mexico and having its terminus and principal port on an island, are subject to many floods and tropical storms. In recent years there have been three tropical storms at Galveston—one in September, 1900; one in July, 1909; and one in August, 1915. The storms of 1900 and 1915 damaged the tracks on the island and the tracks and bridges on the mainland for about twenty miles inland. In the restoration it was necessary to replace considerable embankment, all the ballast, and a large portion of the rail and ties.

The storm of 1900 destroyed three separate pile trestles across Galveston Bay and the County bridge, which was of steel trusses on concrete piers. The Santa Fe trestle had been redriven with marine treated piling in 1895 and being the least damaged of the three, the Galveston, Houston and Henderson and the Galveston, Harrisburg and San Antonio decided to co-operate with the Santa Fe resulting in rebuilding the Santa Fe trestle for passage of trains in a [fol. 481] little less than three weeks. The timbers of the various structures were swept for considerable distance, and in some cases the rails were found nine miles away from the bridge, after the storm (Tr. 4690-4691).

The storm of 1909 did not greatly damage the railway property, other than interruption of traffic for a short period. After this storm all of the Railroads and the County joined in construction of a concrete causeway, which was completed in 1912, at a total cost of $2,025,900.00 of which $341,000.00 or 16 and two thirds per cent was the Santa Fe proportion. This structure was practically destroyed in the storm of 1915. Temporary repairs were

made but of sufficient permanence to handle traffic and work of reconstructing causeway was shortly undertaken and the structure completed in 1921 at a total cost of $2,727,-200.00, of which the Santa Fe proportion was $339,000.00 or twelve and one half per cent. In addition, this storm caused very heavy damage to tracks and buildings on the Island and for twenty miles inland, main line traffic being interrupted for 10 days. This same storm destroyed twenty-seven miles of the line between Galveston and Beaumont was entirely washed away, traffic being suspended for about six months until the line was replaced at a cost of $263,000.00.

In the territory of the South Canadian, Washita, Brazos, Trinity and Colorado Rivers frequent floods occur which resulted in a loss to the Company, not only from damage to property but from delays to traffic and claims from abutting property owners. In 1898, 1900, 1908, 1913, 1915, 1921 and 1922 high water was experienced on all these streams, which resulted in serious damage to the track and delays to traffiic (Tr. 4691-4692).

[fol. 482] The Brazos River crosses the Santa Fe Lines at three points, the Washita at five points, the Trinity at three and the Colorado at two points, the Colorado also paralleling the line for a distance of 40 miles on that portion of the line between Sealy and Matagorda. In addition to these larger streams there are several smaller ones that at flood seasons present almost as serious problems to the maintenance of traffic. Among these may be noted the Nolan River, which crosses the Santa Fe three times in the vicinity of Blum, Texas, and Little River which crosses south of Cameron. High water on the Brazos in 1922 flooded several miles of track in the vicinity of Thompsons, the track being badly washed and most of the shell ballast washed away; one of the abutments of the river bridge was lost and the steel span which it supported was saved only by diligent efforts and considerable expense in temporary protection work. This flood caused a delay to traffic of about a week and an expense of several thousand dollars in repairs. At the same time traffic on the line between Sealy and Matagorda was practically stopped and several miles of track overflowed by the Colorado River, resulting in heavy expense for repairs and replacements (Tr. 4692-4693).

The Brazos and Trinity Rivers on the Beaumont Division between Sommerville and Silsbee were flooding several miles of track at the same time, causing delay to traffic and considerable loss of embankment and surfacing material.

The Nolan River, in March, 1922, flooded and washed out track at intervals over a stretch of eight miles. Over a mile of track was washed completely off the right of way and traffic was delayed four days, repairs costing $49,000.00.

At Little River in 1921 high water completely washed away a 600 foot stretch of 15-foot fill, which was later re-
[fol. 483] placed with ballast deck trestle. The ballast and all track material was completely washed off the deck of a 1,700-foot ballast deck trestle and about 10,000 yards of embankment at one end of the trestle were washed out and traffic was delayed six days. Temporary and permanent repairs cost $148,500.00.

Floods on Red, Washita and Canadian Rivers have also at various times caused very heavy damages and delays to traffic. The location of the main line just South of Purcell has been changed twice at an expenditure of over $100,000.00, in addition to heavy expenditures for protection work, to avoid the encroachments of the Canadian River (Tr. 4690-4691-4692-4693-4).

The next exhibit shows the average annual rainfall in the State of Texas during the years 1905 to 1924 inclusive. The averages are shown by defined districts, marked by perpendicular heavy lines, and range from twenty inches in West Texas to fifty-five inches in East Texas (Tr. 4694).

The statement refered to by the witness was thereupon offered in evidence as Exhibit A-90.

(Exhibit A-90 was received in evidence.)

[fol. 484] I also wish to introduce another rainfall exhibit of five inches or more in twenty-four consecutive hours on watersheds of streams crossed by the G. C. & S. F. Railway during the years 1905 to 1924 inclusive. Rainfalls of eight inches or more have been underscored in red (Tr. 4694).

The statement referred to by the witness was thereupon offered in evidence as Exhibit A-91.

(Exhibit A-91 was received in evidence and is described by the witness.)

The exhibit shows the names of the towns and the counties, the various watersheds, the number of inches, and the dates of the rainfalls. Attention is directed to the maximum number of inches in rainfall during twenty-four hours in the following years: 1905, 7.25; 1906, 8.00; 1907, 8.50; 1908, 14.21, 1909, 8.05; 1910, 6.62; 1911, 15.71; 1912, 6.00; 1913, 12.19; 1914, 10.92; 1915, 10.60; 1916, 6.13; 1918, 8.86; 1919, 9.56; 1920, 10.50; 1921, 19.03; 1922, 10; 1923, 13.54; 1924, 13.85.

While these instances of excessive rainfall are shown as occurring within a twenty-four hour period, as a matter of fact they were of much shorter duration, in most cases actually consuming but a few hours, and were of such volume and force as to cause considerable damage to track or other property (Tr. 4695).

The next exhibit shows the number of freight locomotives in service on the Gulf, Colorado and Santa Fe as of September 1st, 1925; it also shows the type and tractive force of the various classes of locomotives.

The statement referred to was thereupon offered in evidence as Exhibit A-92.

(Exhibit A-92 was received in evidence.)

[fol. 485] The assignment of freight power to the various divisions and districts is made to the best advantage, due consideration being given to grades, density of traffic and local conditions. The smaller type engines are used in mixed and local service, also on branch lines.

In moving a tonnage train of through freight northbound from Galveston over First District to Bellville Yard, 106 miles, Santa Fe type 1600 class engine, weighing 272,700 pounds on drivers, with tractive force 74,800 pounds, handles a train of 3,260 tons on a 0.5 per cent grade without break in rating.

The same class engine handles out of Bellville Yard on Second District 1.25 per cent maximum grade, 1,850 tons for 35 miles to Somerville. If more tonnage is handled it necessitates switch engine pushing train out of Bellville Yard. Out of Somerville the same engine fills out and

handles between Somerville and Temple, 77 miles, 2,400 tons on a 1.25 per cent compensated velocity grade, but some time fails and is forced to double at the ruling points, Caldwell, 16 miles from Somerville, Elevation, 28 miles from Somerville, Milano, 33 miles from Somerville, and approaching Temple, 77 miles from Somerville, which necessitates the run over the major portion of this district with loss of efficiency (Tr. 4695-4696).

By doubling I mean that on the one and one quarter per cent grade which governs the rating of the engine, that even when we use the rating that the engine would normally handle over that hill, that frequently it fails to do so and requires a double, which means that the engine will take a part of the train to the top of the hill, set it out and return for the balance. The same class engine leaving Temple on the Third District, Southern Division, for Cleburne, approximately 100 miles, handles 2,400 tons, on 1.25 per cent [fol. 486] maximum compensated velocity grades, which covers only a small percentage of the distance but causes considerable loss in efficiency in order to make them maximum grades at Namhattan, 35 miles north of Temple, at Meridian, 61.7 miles north of Temple and at Rio Vista, 90.5 miles north of Temple. Leaving Cleburne, on Fourth District for Gainesville, 97.5 miles, the same class of engine handles 2,400 tons, on 1.0 per cent grade controlled by ruling grade at Saginaw and Sanger, 55 and 73 miles respectively from Cleburne, thereby causing loss of efficiency of power. Leaving Gainesville on 5th District for Purcell, 106.8 miles, the same class of engine without helper handles 2,300 tons and with helper 3,800 tons on a 1 per cent grade. The 1 per cent grade extends between Gainesville and Dougherty, at which point the helper is dropped; the grade from Dougherty to Gulf Junction is 0.6 per cent and from Gulf Junction to Purcell is 1.0 per cent grade. This class of engine can handle 3,800 tons Dougherty to Gulf Junction without helper, and only 2,300 tons Gulf Junction to Purcell without helper. Helper engines are cut off at Dougherty and returned to Gainesville light, a distance of 59 miles, unless they can be utilized to help south bound train. I mean that that grade is practically 59 miles in length all the way. There are some portions of it that are not the maximum, but the maximum grade occurs four or five times,

which governs the rating of the engine. The helper service is operated at least once in each direction daily, frequently oftener and it is a daily occurrence to reduce tonnage southbound at Dougherty (Tr. 4695-4696-4697-4698).

In handling tonnage trains, through freight, southbound, from Purcell or Gulf Junction to Gainesville, 106.8 miles, the Santa Fe type 1600 class engine, weighing 272,700 pounds on drivers, with tractive force of 74,800 pounds on [fol. 487] a .06 per cent grade between Purcell and Dougherty, handle 3,800 tons; if a helper engine is available at Dougherty, this amount of tonnage can be handled through to Gainesville intact. If no helper engine is available at Dougherty, it is necessary to reduce tonnage from 3,800 to 2,400 tons over the 1 per cent grade existing between the two points. From Gainesville to Cleburne, 93 miles with a 1.0 per cent maximum grade, same class of engine handles 2,400 tons with considerable loss in efficiency on account of the ruling grades at Krum, 26.5 miles south of Gainesville, and on account of the ruling grades from North Fort Worth to Seminary Hill, 63 miles south of Gainesville. From Cleburne to Temple, 100 miles, 0.9 per cent grade, the same class engine handles 2,750 tons which is controlled by the ruling grade south of Kopperl, 23 miles south of Cleburne, and the ruling grade south of Morgan, 31 miles south of Cleburne, and the ruling grade south of Valley Mills, 59 miles south of Cleburne, thereby necessitating operating over major portion of that district with great loss of efficiency.

Temple to Bellville Yard, 112 miles, with 0.8 per cent grade, the same class of engine handles 2,900 tons, which is controlled by ruling grade approaching Hoyte, 37 miles south of Temple, by the ruling grade approaching Elevation, 49 miles south of Temple, and by the ruling grade approaching Gay Hill, 72.4 miles south of Temple, thereby necessitating the operation over a major part of the district with a great loss of efficiency.

Bellville Yard to Galveston, 106 miles with less than 0.5 per cent grade, the same class of engine handles, when tonnage is available, 5,670 tons, or operates over the entire district at a very considerable loss in engine efficiency. For the greater part of the year we have available 5,670 tons to put in one train (Tr. 4698-4699).

[fol. 488] Where there is sufficient tonnage of a class of freight which will not suffer by delay, trains of the Second District of the Southern Division are consolidated to give tonnage when practicable to this class of engine on the First District between Bellville Yard and Galveston. With the Mikado 4000 class engine and the 1900 Consolidation class engine assigned to the main line districts, above referred to, on both north and south-bound business, their tonnage rating for the same breaking point is governed by the same ruling grades as tonnage handled by the Santa Fe type 1600 engines referred to. On the main line west of Temple from Temple to Brownwood, 130 miles, has 1.25 per cent maximum grade varying in length up to eight miles and full of heavy curvatures. The heaviest locomotive we operate, Santa Fe type, weighing 272,700 pounds on drivers, with tractive force 74,800 pounds, handles 1,950 tons under favorable conditions on this district. The main line west of Brownwood between Brownwood and Sweetwater, 112 miles in length, is 1.25 per cent grade Brownwood to Coleman, a distance of 30 miles; 4000 class Mikado type engine is used. This class of engine weighs 244,600 pounds on drivers and has a tractive effort of 63,000 pounds. With a class 1900 engine as helper between Brownwood and Coleman, this class of engine will handle 3,000 tons. When helper engine is not available, 4000 type Mikado engine handles 1,750 tons to Coleman and is able to handle 3,000 tons from Coleman to Sweetwater over a 0.6 per cent grade, a distance of 83 miles. If a helper engine is not available, the train is operated between points named at a great loss of engine efficiency, unless conditions are such that turn around trains are run to move tonnage between Brownwood and Coleman for through trains to fill out on between Coleman and Sweetwater (Tr. 4701).

[fol. 489] On main line between Sweetwater and Brownwood, we have 83 miles of 0.6 per cent grade on which the Mikado 4000 class engine is used, handling 3,500 tons Sweetwater to Coleman, at which point, when available, helper is picked up to move this 3500 ton train intact to Brownwood. If no helper is available it necessitates reducing at Coleman from 3,500 to 1,850 tons on account of the 1.25 per cent grade between Coleman and Brownwood, leaving 1,650

tons to be moved by turn-around service or other helper service. Temple to Brownwood, 130 miles of 1.25 per cent maximum grade, the Santa Fe type class engines are used, with tractive force of 74,800, handling 2,100 tons under favorable conditions, leaving the excess tonnage arriving from Sweetwater District to be handled out with additional train service. Other classes of engines operating west of Temple in both directions, handle the same relative tonnage under same conditions as recited above as handled by the heaviest type engines operating on other respective divisions. Studies of the possibilities of eliminating or reducing the ruling grades on this 1.25 per cent territory between Temple and Coleman indicate it appears to be impracti-ble (Tr. 4701-4702).

On Beaumont Division, Somerville District, extending from Somerville to Silsbee, Texas, 152 miles, main line, Santa Fe type class engines weighing 272,700 pounds on drivers with tractive force of 74,800 pounds, handle 2,800 tons Somerville to Navasota on a 0.6 per cent grade; helper service with 1900 class engine is operated between Navasota and Conroe, a distance of 49 miles over a 2.0 per cent maximum grade. A Santa Fe type engine with 1900 class helper hendles 2,800 tons intact to Conroe; this same engine handles 2,800 tons from Conroe to Silsbee between which points the average grade is 0.6 per cent. When helper engines are not available, it is necessary to reduce at Navasota to 1,750 tons, which calls for additional turnaround train service, [fol. 490] as well as operating engine over balance of district at great loss of efficiency.

In the opposite direction, between Silsbee and Somerville, 152 miles, the same class engine handles 4,000 tons Silsbee to Conroe, over an average grade of 0.6 per cent. With the aid of a helper from Conroe to Navasota, the 4,000 tons can be handled between Conroe and Navasota over the 1.25 per cent grade. The same class engine can then handle the 4,000 tons Navasota to Somerville. If no helper is available it is necessary to reduce at Conroe to 2,500 tons, which calls for additional turnaround service, as well as operating engine over balance of district at great loss of efficiency. Generally speaking, in the instances about which I have testified as to certain grades requiring reduction in tonnage or

helper, the problem presented is a necessary problem that we have to meet with every day in the year (Tr. 4702-4703).

The next exhibit covers a period of approximately fifteen years and it shows the number of locomotives, the total tractive effort, the average tractive effort, and the per cent of increase in the average tractive effort of 1925 over the previous years (Tr. 4703).

The statement referred to by witness was thereupon offered in evidence as Exhibit A-93.

(Exhibit A-93 was received in evidence.)

[fol. 491] It will be seen that 1925 increased over 1911, 51.2 per cent; over 1912, 47.5 per cent; over 1913, 37.3 per cent; over 1914, 35.5 per cent; over 1915, 40.4 per cent; over 1916, 24.9 per cent; over 1917, 27.0 per cent; over 1918, 26.6 per cent; over 1919, 25.3 per cent; over 1920, 25.2 per cent; over 1921, 11.8 per cent; over 1922, 7.3 per cent; over 1923, 4.6 per cent; and over 1924, 3.8 per cent. The figures for the first fourteen years were taken from the annual reports to the I. C. C. The figures for 1925 were taken from the Mechanical records of the Company.

The next exhibit shows the light locomotive miles, the mileage made in doubling hills with freight trains, and the doubleheading and helper mileage, during the five years ended December 31st, 1924 (Tr. 4704).

The statement referred to by witness was thereupon offered in evidence as Exhibit A-94.

(Exhibit A-94 was received in evidence.)

[fol. 492] There are three helper districts on the G. C. & S. F., namely: Brownwood to Coleman, 30 miles. This helper operates in both directions between Brownwood and Coleman. Conroe to Navasota, 44 miles. This is regular helper service in both directions. A helper is being operated from Dougherty to Gainesville, 59 miles. Frequently this helper operates in both directions and sometimes handles a train in the opposite direction, and at times returns light. A considerable portion of the light engine mileage is due to unbalanced traffic necessitating the equalization of power which is unproductive service and tends to increase the cost of operation (Tr. 4704-4705).

My next exhibit shows the average main and branch mileage of the G. C. & S. F., its leased and operated mileage, covering a period of five years. The branch line mileage averaged 41 per cent of the total mileage of the G. C. & S. F. (Tr. 4705).

The statement referred to by the witness was thereupon offered in evidence as Exhibit A-95.

(Exhibit A-95 was received in evidence.)

[fol. 493] Referring particularly to the line from Somerville to Longview, shown on Exhibit A-82, which is the major portion of what is known as the Beaumont Division, serving the lumber territory, has comparatively little traffic compared with other portions of the G. C. & S. F. Railway designated as main lines and is in reality what from an operating standpoint would be termed a branch line. If that were officially designated as branch line the 41 per cent branch line figure would be materially increased. The only reason I can assign for that line being classified in our accounts as main line is possibly because the line from Somerville to Longview is made up of acquired lines which operated that portion of their line as main line and for some reason they seem to have continued it for statistical purposes at least (Tr. 4705-4706).

The black line from MacGregor to Waco on Exhibit A-82 is a portion of the St. Louis Southwestern Line over which we operate mixed service from MacGregor to Waco on a traffic contract (Tr. 4706).

My next exhibit shows the average tons per train, main and branch, during a period of five years. The main line average tons per train were 1,632 tons, while the branch line averaged 991, a ratio of branch to main of 61 per cent. In other words, for every 100 tons per train on the main lines there were only 61 tons per train on the branch lines of the G. C. & S. F. (Tr. 4706-4607).

The statement referred to by the witness was thereupon offered in evidence.

(Exhibit A-96 was received in evidence.)

[fol. 494] Now in explanation of the figure of 1,632 tons, it should be understood that that represents the average

tonnage per train of through and local freight service on the main line and should not be confused with the tonnage handled by individual through freight trains that has been mentioned, which is considerably greater. In describing the operation over the line with the individual through freight trains the tonnage handled was considerably greater than this average which includes both through and local service (Tr. 4707).

The next exhibit shows the net tons per train, revenue and also all freight tons (which include revenue and non-revenue). The revenue tons carried per train in 1924 increased 32.2 per cent over the revenue tons of 1920, and the total tons of 1924 increased 32.4 per cent over 1920. Briefly the exhibit shows that the increased loading of net tons per train in 1924, compared with the year 1920, resulted in a reduction of 4,498 trains (Tr. 4707).

The statement referred to by the witness was thereupon offered in evidence as Exhibit A-97.

(Exhibit A-97 was received in evidence.)

[fol. 495] This exhibit shows the percentage of tonnage carried to the rating of the locomotives in the years 1920 to 1924 on the main and branch lines of the G. C. & S. F. Railway. The branch line percentage is low. The average loss on main line was 14 per cent, while the average loss on branch lines was 34 per cent for the five year period. These figures represent the difference between full rating and what was actually moved by the engines (Tr. 4708).

The statement referred to by the witness was thereupon offered in evidence as Exhibit A-98.

(Exhibit A-98 was received in evidence.)

[fol. 496] In line with similar action on the part of all the carriers in their effort to provide adequate and economical transportation, the G. C. & S. F. Railway, particularly since 1920, has conducted an intensive fuel economy campaign, and as a result the fuel consumption during 1924 was considerably less than was consumed during preceding years. This has been accomplished by the organization and workings of a very efficient fuel conservation department; a

general educational plan inaugurated amont the enginemen and closer supervision of the individuals having to do with the handling of fuel by Road Foremen of Engines and other supervisory officers. Through the establishment of a Safety Department, and the organization and effective results of various Safety Committees, operating under the leadership of that Department, the amount expended each year for personal injuries and other claims on the G. C. & S. F. Railway is being materially reduced. The expenditures in settlement of claims for loss and damage to freight have shown a very satisfactory decrease in 1924 over previous years, which is indicative of the beneficial results being accomplished in the prevention of loss and damage to freight (Tr. 4708-4709).

Cross-examination:

The maximum grade from Gainesville to Dougherty, northbound, is one per cent. We use a helper at that point. We have greater grades of one per cent south of Gainesville. It is what is known as the momentum grades and have been compensated so that by running a train at a higher speed the engine is enabled to handle its rating over those higher grades. Between Gainesville and Dougherty while the grades are only one per cent, they are long and not classed as momentum grades. Only in instances where the grades are momentum and as an operating man terms it, he can get a run for the hill, are the runs south of Gaines- [fol. 497] ville less at a disadvantage as a practical matter in operation than the one per cent grade north of Gainesville. That is true in most cases of all that south of Gainesville. That is not the reason we do not use helpers. We do not use helpers at a number of places that we would like to because under our contracts with our train and enginemen, we are not permitted to use a helper service. Whether or not I would consider twenty four hundred tons in train a fair load, would depend upon the grades on that particular district. In some districts, it is a good train load. I would prefer to have the operating conditions in mind before undertaking to say (Tr. 4709-4710.)

The line from Somerville to Longview, the portion colored in red is in the classification maintained by the Santa Fe as main line. That is for statistical purposes. But really, from our operating standpoint, we figure it a branch line. So far as the Santa Fe classification is concerned, it is main line. Referring to Exhibit A-98, the percentage of loss of tonnage on the main line is not a bad showing. The percentage of loss on the main line traffic is pretty low, but it should be understood that this is the average. You could not apply that every day. If we had our engines rated, or handling that per cent of their normal rating, in both directions, every day in the year, it would be a good showing. But you have that for portions of the year only. Being an average, it follows that during some portions of the year our loss is less and others it is slightly greater. The percentage referred to is applicable to main line. That figure is the average figure for all main line trains operated. I meant to confine it to that. I would say that it might be less as confined to our through main line trains. I would have to work it on that basis to speak definitely. Ordinarily it is true that the through trains show a less loss, percentage loss of tonnage, than other [fol. 498] trains which might be classified as local trains although main line trains (Tr. 4711-4712).

Referring to our loss on branch lines, I would say that is due to the light density of traffic principally (Tr. 4712-4713).

The average tonnage of freight trains main and branch lines during the five years 1920 to 1924, is gross tons. On individual trains operated with the heavier type of our power, that I described, the tonnage would be somewhat higher than the average shown. That would not be the type of power that would be used in through trains in all cases. In the case of that traffic, there might or might not be an increase in the average number of tons according to the class of traffic. Those engines are used on what we term drags (Tr. 4713).

Referring to Exhibit A-94, by doubling hills with trains, I mean where you have a hill that is not or might not be classed as a helper district hill, you see when a man cuts his train in two and takes a portion to the top, then you have lighter mileage coming back to get your other por-

tion. Under the column carrying this information, the light locomotive mileage is shown. The last column in the exhibit shows doubling and helper service. Of course the helper service means on the regular established districts, the second engine helping the other engine up the hill. The figures from 1920 to 1924 show an increase in the number of tons handled, because we have got two helper districts established that we have not had previous to that year. Those two are Brownwood to Coleman and Gainesville to Dougherty. We established those helper districts in order to avoid the setting out at Dougherty in that instance and the running of additional train service to move the traffic. In the judgment of the operating officials of the Santa Fe, the establishment of those districts as helper districts decreased our cost of operation. I would say that the in-[fol. 499] crease from 20,000 to 138,000 should be taken as representing an increase in the cost of handling the traffic for the reason that we hav-n't the traffic to operate that helper at its maximum capacity in both directions. Operating the helper is not always a more economical process than pushing the traffic in sections over the hill at different times, because if we ran a train, we would probably be able to handle more tonnage with two trains than we would with two engines, one of them a helper. We established the helper district because we thought that it was more economical operation and it has proven to be more ecomical (Tr. 4714-4715-4716).

Referring to Exhibit A-83, that profile so far as the detail is concerned is illustrative of all the others in the book. I have shown the grades in feet per mile by directions at the bottom of each sheet. In the first section out of Galveston, the ascent on the northbound business is 2.11 feet per mile. I don't like to make a definite statement because I am not sure that would be the rise per mile or even the rise from Galveston to Bellville Yards. Between each mile on the bottom you notice the rise in feet per mile. For instance between Virginia Point and Texas City Station northward, the rise is 8.98 feet per mile. The same section southbound shows the rise is 14.78 feet per mile. I should think any civil engineer could easily figure out the rise and fall from the figures given (Tr. 4716-4717).

G. W. LUPTON was thereupon called as a witness and testified as follows:

[fol. 500] Direct examination:

I am Assistant to the Vice President in charge of Operation of the A. T. & S. F. Railway and have been for nearly four years.

(Here Attorney Towner conceded the witness's qualifications.) (Tr. 4717-4718.)

I have prepared a map of a portion of the A. T. & S. F. System Lines (Tr. 4718).

The map referred to by the witness was thereupon offered in evidence as Exhibit No. A-99.

(Exhibit A-99 was received in evidence. It is described by the witness.)

The Witness, continuing: The dotted line shows the line of the Panhandle and Santa Fe Railway. A smaller blue line shows the Gulf, Colorado and Santa Fe South of Gainesville. The solid lines are the A. T. & S. F. and the heavy line is the freight route of the A. T. & S. F. over which this traffic moves (Tr. 4718-4719).

I have had prepared another exhibit consisting of the profiles of the Atchison, Topeka and Santa Fe Railway (Tr. 4719).

The profiles referred to by the witness were thereupon offered in evidence as Exhibit A-100.

(Exhibit A-100 consisting of four sections of profile of the A. T. & S. F. Railway System was received in evidence.)

[fol. 501] The Panhandle & Santa Fe Railway Western Lines, the Atchison, Topeka and Santa Fe Railway Company's western lines, Wellington to Oklahoma-Texas State line; the profile of the Atchison, Topeka and Santa Fe Railway Company's eastern lines, east of Kansas City; and the profile of the Atchison, Topeka and Santa Fe Railway's eastern lines west of Kansas City (Tr. 4719).

Supplementing the service rendered by the Gulf, Colorado and Santa Fe in the handling of Texas and Louisiana traffic, the Santa Fe System has in addition to its line

reaching El Paso, what is known as the Panhandle and Santa Fe, serving certain portions of northern and western Texas. This line connects with the Gulf lines at Sweetwater Junction and with the Atchison proper at Higgins near the Oklahoma-Texas State Line on the east and Texico on the New Mexico-Texas State line on the west. This portion of the line is somewhat comparable with the northern portion of the Gulf Lines as set forth by witness Cowley.

The service rendered, includes the picking up and setting out of traffic originating at or destined to all branch line or main line points on this railroad. In order to put this line in condition to haul this traffic in a safe and expeditious manner, large sums have been expended in reducing grades and curvature, ballasting track, laying heavier steel, constructing suitable bridges etc., the amount thus expended during the past five years aggregating approximately $3,400,000.00. This is all single track territory. Fuel oil to supply this territory is hauled an average of 335 miles—the maximum being 517 miles. There is a heavy wind velocity over this plains country which at times seriously [fol. 502] impedes the movement of trains; the velocity at times exceeding thirty miles per hour. Loss of engine and fuel efficiency naturally follows (Tr. 4720).

The territory drained by the Canadian River is particularly susceptible to washout troubles, traffic having suffered frequent interruptions. Repairs to bridges and track as a result have cost large sums. During the year 1923 the bridge across the Canadian River was washed out, obstructing traffic for a week or more on one occasion, and on another, the bridge was out of service for a period of ten days. Repairs to bridges and track on this occasion alone cost us approximately $185,000.00. This interruption and expense caused a thorough study to be made of the situation with the object in view of preventing, possible, similar occurrences in the future. As a result we recently completed the lengthening and strengthening of this structure at a cost of about a million and a half dollars. One who is familiar with this section of the country realizes that it is nearly impossible to tell whether the flood waters will follow the old river bed or cut a new channel on either side thereof, thus nullifying the precaution taken.

In order to efficiently and economically handle the traffic offering in this territory, engines of the 1,800 and 1,050 classes are used south of Amarillo and Texico, 1,800 class having a tractive power 40,300 pounds, with a weight on drivers of 174,300 pounds. The 1,050 class have a tractive power of 38,150 pounds, with a weight on drivers of 167,500 pounds. These engines are oil burners. There are several grades encountered in this territory of 1 per cent, thus limiting tonnage to 50 per cent of engine capacity between certain points (Tr. 4721).

[fol. 503] The traffic originating or terminating on the Panhandle and Santa Fe south of Amarillo and Texico, which constitutes the major portion of the P. & S. F., is either assembled at or distributed from Amarillo. Between this point and the Missouri River and east thereof this traffic is handled in through trains. Eastbound we have a helper district between Canadian and Coburn, a distance of eighteen miles. This traffic moves through Oklahoma and Kansas over a single track railway as far as Newton, Florence, or Ellinor with the usual operating difficulties surrounding the handling of heavy business over such track. The bulk of it is routed via Wellington and the Ellinor cutoff, which was constructed at a cost of several million dollars, thence through Ottawa Junction to Kansas City. Ellinor cutoff is in a northeasterly direction from Eldorado. We handle some traffic that way, but we handle it also via Mulvane, Augusta and Ellinor. Westbound there is the interchange point of the A. T. & S. F. with the G. C. and S. F. at South Shawnee and Purcell, bulk of the traffic being handled via South Shawnee over what was originally known as the Eastern Oklahoma, extending from Shawnee to Newkirk, a distance of 133 miles. This line was constructed at a cost of several million dollars to afford a low grade line as against the line through Guthrie and Purcell.

On the old line extending from Newkirk to Purcell, a distance of 141.5 miles, there are several 1 per cent grades both north and southbound on this stretch of track, thus very materially reducing the tonnage efficiency of locomotives and thereby increasing operating costs. As a matter of fact, engine ratings over this line are reduced about 40 per cent as against the low grade line.

In order to provide through freight service from both the territories north and south thereof to such important cities [fol. 504] as Oklahoma City, Guthrie and Ardmore it is necessary to run some of our through freight trains by way of the old line, operations over which naturally involve greater cost and are more burdensome. It being necessary to operate some of our trains over the old line, the inclusion therein of some of the traffic in question is economical and efficient from an operating standpoint for two reasons. First, in order to increase tonnage on trains going via the old route, and, second, by reason of securing expedited handling of the freight. Thus, as to a considerable quantity of freight which requires fast handling and which is available for movement in one of the trains going via the old route, it is more proper to handle that freight in such train and insure its early arrival at destination than to hold it to await a later train going via the new line, or run a light train via the new line in the event the freight is of a character that would permit no delay in its handling (Tr. 4723-4724).

The bulk of this Texas traffic moves via Arkansas City and Ellinor through Ottawa Junction to Kansas City. It will thus be seen from the map that we have constructed at various times in order to properly care for a constantly growing tonnage no less than three routes over which thus traffic to a certain extent has and is still being handled, namely: via Arkansas City, Winfield Junction and Newton, via El Dorado and Florence, and via El Dorado and Ellinor. On a large portion of this territory described, it is necessary to treat the water on account of alkaline conditions. The cost of water for locomotive purposes in the territory west of the Missouri River exceeds that east thereof to a very considerable extent and adds to operating expense.

It is probably needless to say that in the purchase of locomotives for System Line, due consideration is given [fol. 505] their assignment, that is to say, they are placed on the territory where they will produce the most efficient results, the heavier power being assigned to the heavier grade territory and the lighter to the plains and valleys. It is well known that the Santa Fe has been in the vanguard in equipping its line with up to date locomotives and cars. It has taken on great expense in equipping its engines with

all the latest devices which make for efficiency and economy, such as feed water heaters, stokers, superheaters, etc. The tractive effort of our engine as a whole has increased over 40 per cent during the past twelve years (Tr. 4724-4725).

It is well known that in the original construction of much of the mileage west of the Missouri River, capital was scarce and prospective traffic light. It was, therefore, necessary to economize in every conceivable way, otherwise sufficient capital could not have been secured with which to serve the territory. As a result, millions have been and are being spent every year in reducing grades, straightening curves, ballasting track and renewing with heavier rail, constructing heavier bridges, and longer sidings or passing track, purchasing up to date locomotives and cars, etc., all of this being necessary in order to give that service the public demands and bring about efficient and economical operation of the property. During the past five years there has been expended some $32,000,000.00 for straight additions and betterments on the line west of Kansas City and east of Albuquerque. As a result of these expenditures the average tonnage handled in freight trains is approximately 20 per cent greater than it was five years ago (Tr. 4725).

Witness Cowley called attention to the torrential rains along certain parts of the G. C. & S. F. Railway. The lines east of the Missouri River do not suffer from these heavy semi-tropical storms, the rains being steady, and generally [fol. 506] speaking, comparable one year with another. Rarely indeed do we suffer interruption to traffic on this account.

In so far as claim prevention work is concerned, the Santa Fe stands in the forefront. Ever since 1909 it has conducted a continuous campaign looking toward the better handling of freight and a reduction in the amount paid out for loss and damage thereto. The safety of the travelling public and that of our employees is our first consideration. Some of our officers devote all of their time to safety matters, while those charged with the responsibility of operating the property, give safety their first consideration.

Santa Fe equipment is second to none. Cars are thoroughly inspected and where defects exist, repairs are made

before allowing cars to be loaded or forwarded from junction points. Very material savings have been effected through our fuel organization and the conservation of fuel is being given constant attention at the hands of Fuel and Operating Department officials.

Our line east of the Missouri River, which is a double track line, is generally known as velocity territory, that is to say the grades are not of sufficient moment to materially affect either speed or tonnage. Water and fuel supply is particularly favorable. With the exception of switch engine helper service, a short distance, from A. T. Junction to 15th Street, Kansas City, eastbound, and from Chillicothe to Edelstein, westbound, a distance of eight miles, helper service is not regularly provided. Generally comparing our own line east and west of the Missouri River I would consider the lines east of the River easiest to operate (Tr. 4726-4727).

Exam. Disque: Is that confirmed Mr. Outlaw, by your operating expenses per ton mile or per mile or on some other unit?

Mr. Outlaw: It is.

[fol. 507] Mr. Tower: Do you expect to show that in the record?

Mr. Outlaw: I do not, Mr. Towner.

Cross-examination:

The traffic on the Panhandle and Santa Fe originating between Seagraves Junction and Kansas City moves over the direct line and traffic via the line east of Seagraves Junction to Sweetwater goes directly across. Traffic from Texas via the Gulf, Colorado and Santa Fe Line goes partly through Shawnee and partly through Purcell. The Shawnee line is the easiest line and in the absence of unusual conditions, the traffic would move over that line. But you have to serve that territory between as I explained in my former statement. You have to protect the traffic that originates or is destined to the territory between Purcell and Newkirk. My statement applies to the through traffic from Texas to points north of Kansas City. We serve that territory in part with through trains (Tr. 4727-4728).

We operate only one helper district west of Kansas City on the Panhandle and Santa Fe, and the Santa Fe, and that is at Canadian. We have two helper districts on our low grade line to Kansas City (Tr. 4728-4729).

The improvements made in the last few years are reflected in the profiles in exhibit A-100 and the profiles can be accepted as showing the present conditions. The profile on top designated Through Line is the one from Kansas City to Chicago. The next one from Purcell to Newton, Kansas. That is the remainder of the eastern lines. It is the other one headed Eastern Lines. There are three routes there, all shown on the profiles. One through Englewood Junction, Wichita to Newton, and the other is designated as Wellington to Oklahoma State Line. The line from Wellington is through Harper to Attica. The last profile is designated "Lines in Texas." That is just the Panhandle and Santa Fe. The blue prints cover our line from Kansas [fol. 508] City west to Newton (Tr. 4729-4730).

Q. In what blueprint do those appear?
Mr. Outlaw: In the second, Mr. Towner.
Q. I thought that was just to Newton.
A. Well there's two of them.

The Witness, continuing: We have some troubles on the eastern lines but we are not tied up like we are on our western lines. The point of distinction is that this western territory is of a tropical nature. The rain comes down in great volume and sweeps everything before it, whereas the territory east of the Missouri River they may have a heavy rainfall, but it will spread over such a length of time that no really bad track results follow. I suppose the Mississippi River north of St. Louis sometimes goes on a rampage. I am not familiar with the lines north of St. Louis. Our traffic was not tied up by the very severe sleet storm in Illinois a year ago last Christmas. Our wires were down and we had some trouble but our traffic was not materially delayed. Our experience proves that those things are not comparable to the damage inflicted by the rainfall west and south of Kansas City. I would not say whether or not the Santa Fe is more fortunately situated in that respect east of Kansas City than the other roads such as the Alton, Great Western, Milwaukee and Rock Island, because my

knowledge of the other lines is somewhat limited. Our line east of the Mississippi River is so stable that we rarely suffer interruptions.

[fol. 509] J. CANNON was thereupon called as a witness and testified as follows:

Direct examination:

I am General Manager of the Missouri Pacific Railroad and have been connected with those properties twenty one years. I have served in the capacities of Superintendent, General Superintendent, Assistant General Manager and General Manager, and am familiar with the present and past operating conditions over the lines of that carrier (Tr. 4733).

The Missouri Pacific operated mileage is 7,338, located in the States of Missouri, Kansas, Nebraska, Colorado, Illinois, Louisiana, Arkansas and Oklahoma, with additional second main track of 275 miles, of which 66 miles are in Missouri, 7 in Kansas, 10 in Nebraska, 92 in Illinois and 100 in Arkansas.

Of the total mileage operated 53.9 per cent is branch lines. In Louisiana, Arkansas, Oklahoma and Missouri, excluding the lines from St. Louis to Kansas City, the total mileage operated is 3,775, of which the branch line mileage is 49.6 per cent of the total miles. While these branch lines are necessary in serving certain communities and territories, it is a fact that the cost of operation and maintenance per ton of freight handled is considerably more than is the case with respect to main lines. The average gross tons per train mile is small, there not being a sufficient volume of traffic to obtain anything like a full train load. On a number of the light traffic branch lines the loaded cars handled in a train from the main line to the terminus of the branch will not average more than about eight cars a considerable portion of the time. While the outward movement is somewhat heavier, it is only about one-third to one-[fol. 510] fourth of the tonnage that can be hauled generally in a train on the main line. In a great many cases it is necessary to pay constructive mileage on the branch lines

to train and engine crews, i. e. 100 miles or eight hours per day, although the runs are considerably less, consequently the ton mile cost is higher. These conditions, with the large branch line mileage, naturally augment the cost of handling business on the system as a whole.

To illustrate to a certain extent the comparison of handling freight on a branch line and a main line, I have taken our light traffic White River Division, running from Carthage, Missouri to Newport, Arkansas, comprising 318.81 miles, all branch line, and our Central Division—400.49 miles—running from Little Rock, Arkansas, to Coffeyville, Kansas, consisting of 329 miles main line and only 71 miles of branches. Month of November, 1925, the average gross tons per freight train mile on the White River Division was 772, and on the Central Division 1,759, the latter exceeding the White River Division by 987 tons, or 128 per cent. The cost per 1,000 gross ton miles on the White River (branch line) Division is more than double the cost on the Central (main line) Division.

Certain portions of the territory traversed by our lines are more or less hilly, with numerous grades and curves, while there is also a considerable mileage through lowlands tributary to various rivers and streams subject to overflow, floods and washouts, with a large number of bridges and trestles, which necessitate heavy expenditure for maintenance and operation (Tr. 4734-4735).

Our main line from St. Louis to Texarkana crosses the Ozark Mountains, with maximum grade of 1.95 per cent. The line running from Little Rock through Northern Ar- [fol. 511] kansas via Van Buren and Coffeyville to Kansas City encounters very choppy grades ranging up to one per cent, while from Newport, Arkansas, via Carthage to Kansas City, the grades are heavier, being 1.25 per cent between Diaz and Batesville, 1.00 per cent between Cotter and Crane, 0.6 per cent between Crane and Carthage, 1.09 per cent between Carthage and Nevada, 1.32 per cent between Nevada and Pleasant Hill, and 1.34 per cent between Pleasant Hill and Kansas City. Our lines through Eastern Arkansas and Louisiana cross many streams, paralleling the Mississippi River from Memphis southward for a distance of 236 miles, and are subject to overflow during high water, which occurs periodically, and at times of highest flood has

resulted in from 100 to 200 miles of track being inundated or isolated, with many washouts, causing heavy expense for repairs and upkeep. The lines thru Oklahoma and Central Kansas parallel the Arkansas River from Fort Gibson, Okla., to Pine Bluff, Ark., a distance of 276 miles, while the line from Carthage to Newport, 271 miles, parallels the White River from Branson, Missouri, southward a distance of 191 miles, and during times of high water there are floods and washouts (Tr. 4736).

Precipitation in the States of Arkansas and Louisiana is quite heavy. For a period of twelve years the average annual precipitation in Arkansas was 49.66 inches, Louisiana 58.38 inches, compared with Illinois 36.93 inches, or 58 per cent greater in Louisiana than Illinois and 34 per cent greater in Arkansas. The heavy rainfall with floods and washouts adversely affects operating costs. Our expense for washouts, flood restoration and river bank protection from 1912 to 1924 amounted to: Flood Damage, $3,249,-259.00; River Bank Protection, $2,269,000.00; total $5,518,-259.00. The years of largest expenditure were: Floor Damage, 1912 $439,109.00, 1913 $283,891.00, 1915 $455,-066.00, 1916 $688,038.00, 1922 $403,081.00, 1923 $330,546.00; River Bank Protection, 1912 $65,000.00, 1915 $90,000.00, [fol. 512] 1915 $195,000.00, 1916 $259,000.00, 1922 $175,-000.00, 1923 $235,000.00.

There are 7,774 bridges and trestles, totalling 706,470 feet, or 134 miles, on the lines we maintain. We have nine bridges over the Arkansas River, the largest a steel span bridge near Fort Smith, Arkansas, totalling 2,338 feet; two steel span bridges over that River at Little Rock, one totalling 1,260 feet and the other 954 feet; and Bridge 87 at Watson, Arkansas, over the Arkansas River totals 1,248 feet. Some of the other steel bridges of considerable length are—Number 31 over the Osage River 1,165 feet and Number 178 over the White River near Cotter, Arkansas, 1,085 feet.

Some of the longest trestles are: No. 83, north approach White River Bridge near Mozart, Arkansas, Main Line, 6,486 feet, while south approach is 3,767 feet. Trestle No. 85 on this same line, 3,543 feet. Trestle approach Bridge 87, Medina, Arkansas, 2,706 feet. Trestle No. 1061, Fiske, Southeastern Missouri 2,599 feet. Trestle No. 223, near

Corning, Arkansas, 2,448 feet. The expense for repairs and upkeep of these structures is considerably greater than for regular roadway. Our regular maintenance charges for bridges, trestles and culverts for four years, 1921 to 1924, totaled $100,000.00 (Tr. 4736-4737-4738).

Another factor that augments our cost of transporting business is the unbalanced traffic, being considerably heavier northbound from the States of Louisiana, Arkansas and Missouri through the gateways of Thebes, Dupo and St. Louis than in the reverse direction, at times being unbalanced to the extent of approximately 60 per cent north compared with 40 per cent south. This condition is brought about by our lines and southwestern connections [fol. 513] extending through a producing territory. The class of traffic moving northbound consists principally of lumber, lumber products, livestock, cotton, fruits and vegetables and other perishables, etc. These commodities generally are delivered to connections in carload lots while a certain volume of the traffic in the reverse direction coming from connections through St. Louis for movement southward is merchandise, manufactured articles, etc., a portion of which requires freight house handling and distribution to various cities and towns in small lots, which adds considerable to the cost per ton for handling.

This unbalanced traffic causes large empty car movement from our northern lines, chiefly through St. Louis and Kansas City, which are the principal points for distribution of empty equipment, to our southern lines, to protect car supply in that territory to meet the demands for outbound shipments. It is necessary at times, to take care of loading, to haul empties in train lots southward for a distance of 500 miles or more, and then distribute to the various points for loading, which results in higher unti cost per ton.

Another burdensome condition with which the railroads have to content, and augments the cost of handling business in Arkansas, is the so-called "Full Crew" Law in that State that has been in effect since 1909, requiring an extra or third brakeman on all through freight trains and an additional helper, or switchman, on switch crews in various terminals. The extra man on a through train is equal to an increase of 16 per cent in the wages of through freight

crews handling traffic in that State, while the additional helper on switch crews is equal to a wage increase of 19.5 per cent per crew. There is no other state that I am aware of where the laws are as drastic in this respect as in Arkansas and no laws of this kind with which the railroads are confronted in the States of Illinois, Iowa, Minnesota, Michigan and Wisconsin. The Arkansas Law is a Legislative [fol. 514] Act, and although efforts have been made to secure relief therefrom, and are still being made, the railroads have not succeeded in securing relief (Tr. 4738-4739).

The property of the present Missouri Pacific Railroad Company was acquired at foreclosure sale June 1, 1917. Since that date to November 30, 1925, the charges to Road and Equipment for additions and betterments have amounted to $89,788,694.00. The large expenditures made for improvements and additions were chiefly for the purpose of effecting more economical operations, to help to handle an increasing volume of business, and provide satisfactory service. The expenditures for new equipment, including 287 locomotives and 9,895 new freight cars, and the rebuilding of locomotives and freight cars and improvements to existing equipment amounted to approximately $53,900,000.00.

Expenditures for improvement of shops and engine houses, power plants and shop machinery amounted to over $5,000,000.00. Other principal roadway expenditures were for signals and interlockers $1,160,000.00; ballast $1,302,000.00; water stations (including treating plants) $1,621,000.00; fuel stations $826,000.00; new and stronger bridges, trestles and culverts $4,407,000.00; additional tracks, grading and increased yard facilities, heavier rail, etc., $14,554,000.00. Passing, siding and spur tracks were constructed totalling 292 miles (Tr. 4739-4740).

Following are some of the principal individual items completed and under way during the past two years: Installation of automatic train control in compliance with order of the I. C. C. on one district, Kansas City to Osawatomie, approximately 60 miles, cost $255,000.00; new yard tracks, Little Rock, $100,000.00; River protection, Arkansas River, Yoncapin, Arkansas, $135,000.00; reconstruct Bridge 87, [fol. 515] Arkansas River, Kragen, Arkansas, $300,000.00; rebuild Bridge 221 on new alignment, Piney, Arkansas,

$100,000.00; replace two truss spans, Bridge 111, Fort Gibson, Okla., $194,000.00; strengthening bridge 18, New Augusta, Arkansas, $100,000.00; bank restoration and ballast, Bardell to Gilbert, Louisiana, $256,300.00 (Tr. 4741). New Enginehouse, Bush, Illinois, $115,200.00; new enginehouse, St. Louis, Missouri, $151,000.00; new engine house, Osawatomie, $107,000.00; eleven miles second main and passing tracks Little Rock and Benton, Arkansas, $793,000.00; automatic block signals, Poplar Bluff, Missouri to Clear Lake Junction, Arkansas, $890,000.00. The bank restoration and ballast from Bardel to Gilbert, Louisiana, was necessary for strengthening the line to carry the traffic (Tr. 4740-4741).

Additional large sums are required as funds may be obtained to carry on this important improvement work. With the acquisition of new and heavier engines, the tractive effort per locomotive has been increased from 28,319 pounds in 1912 to 38,756 pounds in 1925, or 37 per cent. Our principal heavy engines are now equipped with superheaters, brick arches, automatic stokers, fire doors, etc., and other modern improvements, which tend to help reduce cost. As indicating the advancement made toward economical operation over a period of years, represented by greater train load, there is cited the fact that our average gross tons per freight train mile has increased from 969 tons in 1913 to 1,188 in 1916; 1,258 in 1917; 1,289 in 1921; 1,469 in 1924 and 1,565 in 1925, or an increase over the year 1913 of 596 tons or 61.5 per cent. In 1925 our gross ton miles (in thousands) were 25,760,805, an increase over 1913 of 11,029,074, or 74.9 per cent, while our train miles in 1925 were 16,477,159, an increase over 1913 of 2,279,605 or 16.1 per cent. In other words, we handled an increase in gross ton miles of [fol. 516] 74.9 per cent with an increase of only 16.1 per cent in freight train miles, attributed to the greater train load. To handle the 1925 volume of business with the average train load in 1913 would have required 26,584,938 train miles, or 10,107,779 more train miles than were made in 1925. The greater increases have been chiefly on main lines where heavier traffic density exists than on branch lines where the opportunity for increasing train load and economical operation is less by reason of a substantially less volume of business moving per mile of road (Tr. 4741-4742).

Another factor indicating progress and economy, is the average miles per car per day, increasing from 23.3 in 1921 to 33.02 in 1924 and 37.22 in 1925; the ton miles per car per day showing corresponding favorable increase. Considerable progress has been made in effecting economies in the way of saving fuel by reducing consumption. We have a General Fuel Committee, with local committees on each division, which latter consist of Superintendent, Trainmaster, Master Mechanic, Engineer, Road Foreman of Engines, Roadmaster and a Conductor. Also a Superintendent Fuel Conservation and an Assistant, who are continually going over the line talking fuel economy, the object being to get all employees concerned, including division officers, engineers, conductors, trainment, roundhouse men and all interested in fuel economy. Fuel board is posted at each terminal showing unit consumption for each class of service, and monthly bulletin issued to all employees showing progress made. The average pounds of coal consumed per thousand gross ton miles in freight service, year 1914, was 185 pounds; in 1924 164 pounds; and in 1925, 152 pounds.

This same method is followed with respect to safety-first [fol. 517] work, having Superintendent of Safety in charge and safety committees on each division. In order to reach, by word of mouth, all our employes, there being a great many who do not have the opportunity of attending monthly staff meetings, safety drives are made by committees going over the line and personally talking to all employes in each class of service and others upon the subject of safety, outlining to them their duties to themselves and their fellow-workers (Tr. 4742-4743).

We also have a Loss and Damage Freight Claim Prevention organization, in charge of Superintendent Claim Prevention, with local committees, constantly striving to avoid loss and damage to shipments and thereby reduce this item of expense. We have in use a number of impact recorders to locate and place cause of damage and help in correcting irregularities. To indicate the progress made, our ratio of loss and damage freight claim expense to freight revenue in 1921 was 2.54; in 1923, 2.38; in 1924, 1.03; and in 1925, 1.01.

The economies such as mentioned above have been helpful in reducing operating costs, constantly conserving revenues accordingly. Our transportation ratio, i. e. total

transportation expense to gross revenue has been reduced from 41.29 in 1921, 41.25 in 1922, 39.35 in 1923 and 37.79 in 1924, to 36.92 in 1925 (Tr. 4744).

Attorney Larimore thereupon offered in evidence certain profiles of the Missouri Pacific Railroad as Exhibits A-101, A-102, and A-103 (Tr. 4744).

(The said profiles were received in evidence as Exhibits A-101, A-102, and A-103.)

[fol. 518] Cross-examination:

The main line of the Missouri Pacific system is as follows: Starting in at Texarkana, Arkansas, up to Little Rock, thence into St. Louis on the west side of river is main line. Branching off at Poplar Bluff, going to Dexter Junction, Missouri, trackage over the Cotton Belt to Ilmo, over Thebes Bridge into Dupo is main line; also main line from Texas Junction with trackage over the Cotton Belt to Paragould. Texas Junction is opposite Poplar Bluff. From Paragould then down to Clayton, Louisiana. That is next the river. We also use from Little Rock to Alexandria, Louisiana, main line, there are two main lines down there. The through traffic goes through Monroe, Alexandria. From Kansas City to Little Rock down to Coffeyville is main line and up to Omaha is main line; also Pueblo is main line. Everything which I have not named in that territory is branch line mileage except from Kansas City to St. Louis. Both the lines between Kansas City and St. Louis are main lines. The one next to the river is the freight line and the one through Sedalia is the passenger line. Also we run stock trains and pick-up freight trains. The profile of all these lines is shown on Exhibits A-101 and A-102 (Tr. 4745-4746).

On every railroad the branch line costs of operation are always greater than the main line costs. We referred to it because we are unfortunate in having so many branch lines. I attach importance to the fact that our empty car movement is heavy. That is on the line between Dupo and St. Louis and the south and between Kansas City and St. Louis. I think that empty car movement on any railroad is an item of cost that ought to be given considerable consideration. Where their traffic is unbalanced it runs the cost up (Tr. 4746-4747).

On Exhibit A-101 I have shown our grade in per cent instead of rise and fall in feet per mile; 1 per cent, 1.25 per [fol. 519] cent and so forth. Referring to the blueprint which reads, "From Virginia to Kansas City, Kansas" (Exhibit A-101), the figures below the bottom line of the profile represent the distance in miles from Kansas City and the percentages shown on the grade line are grade percentages. The only way of telling how long these designated grades are is by computing it from the mileages as shown on the bottom. They are shown approximately correct from this choppy line up there, drawn to scale. The grade line, such as shown from Kansas City, is a rather difficult line to operate in some instances, particularly where the grade is as steep as this grade. My explanation of the marking with respect to the profile referred to applies to all the profiles that are contained in Exhibit- A-101 and A-102 (Tr. 4747-4748-4749).

W. G. CHOATE was thereupon called as a witness and testified as follows:

Direct examination:

I am General Manager of the Gulf Coast Lines. I have with me Mr. Schwimm, the Assistant Chief Engineer of the Gulf Coast Lines and the International and Great Northern. I am not familiar with the International Great Northern and Mr. Schwimm will answer for the physical property of that road. He was formerly Chief Engineer of the International Great Northern and became Assistant Chief Engineer of both properties when the managements were put together about the first of 1925. The statement which I shall make is the result of the collaboration between the operating departments of the International Great Northern and the Gulf Coast Lines (Tr. 4749-4750).

The Gulf Coast Lines run from Brownsville to New Orleans and the International Great Northern from Houston [fol. 520] to Ft. Worth, Waco and Laredo, with a line from Longview to San Antonio to Laredo and a line from Houston to Palestine. The Gulf Coast Lines on the whole averages about forty or fifty miles from the coast to the Gulf

of Mexico. Since 1916 and up to 1924 the Gulf Coast Lines have been operated as an independent property. In the latter part of 1924 the Gulf Coast Lines acquired control of the International-Great Northern Railroad and shortly after the Missouri Pacific acquired control of the Gulf Coast Lines.

The Gulf Coast Lines and the I. G. N. combined, the following is submitted as indicating the situation on these lines: 1st, Development of this territory and increased maintenance and improvement charges: With the development a increased production in our territory, there has been a corresponding increase in the amount of traffic moving over our lines in recent years. During the season 1924-1925 the Gulf Coast Lines handled 12,541 cars of vegetables out of the Rio Grande Valley compared with 3,462 cars in the season 1922-1923 and 1,003 cars in the season 1917-1918. As regards vegetables we are handling a class of long haul traffic which requires the highest degree of expedited service and to properly handle the prospective increase in this traffic we need a very substantial physical plant, roadbed and equipment. On the I. G. N. we started in 1923 on a program of laying new 90 pound rail, completing 100 miles in 1923, 55 miles in 1924, 100 miles in 1925, and we have 100 miles included in our 1926 program. On the Gulf Coast Lines we have been carrying on a rail renewal program since 1920, laying 35 to 40 miles of 85 pound rail each year up to and including 1925 and our program for 1926 calls for 75 miles of 90 pound rail. This work is being undertaken in order to meet the growing needs of the territory we serve, to take care of the volume and [fol. 521] character of traffic, and to place our lines on the basis of a high speed railroad for freight as well as passenger traffic. We need larger locomotives, heavier rail, adequate ballast and ties, double tracking and later on modern station buildings and terminal layouts. In the next decade at least, due to the increasing rapidity with which our territory is developed, the maintenance requirements of our roads and our expenditures for improvements, and the interest charge thereon, will be considerably higher than they have been in the past and such expenditures will bear a higher ratio to our earnings than is the case with

older roads who already possess physical plant, roadway and equipment, which is accepted by American railroading at the present day as standard. The cost of these undertakings, of course, will react to the carrier's benefit eventually and help it achieve certain additional economies of operation but the one will not offset the other, at least for a long time, and such savings as can be made will not be realized immediately, and the fact remains that we will have an added burden on our future, in comparison with our past operations (Tr. 4750-4751 4752).

Another thing which our roads and other Southwestern roads burning oil for fuel have been confronted with recently is the heavy increase in price of oil. During the year 1925 the cost of fuel oil charged to Transportation Expenses on the I. G. N. and Gulf Coast Lines combined amounted to $2,652,066.00. This figure is $500,245,00 or 24 per cent higher than in 1924 due to increased price of fuel alone. Our railroads, for some months past, have been unable to make favorable fuel contracts and there is no prospect of this situation being changed for some time to come. Roads in Southwestern territory have for years [fol. 522] burned oil as being the cheapest fuel available, but we are coming to a point where, if fuel oil prices show no tendency to go back to their former level, serious consideration must be given to converting our locomotives to coal and building expensive facilities for handling coal. This would also involve carrying a larger fuel stock, because we would be so far removed from the source of coal supply and we would have to protect our needs in this way against coal strikes. This would mean a duplication of facilities and the keeping up of both a coal supply and an oil supply because we will probably have to use oil on the passenger engines. I think the public will demand that. Our 1925 operations for both roads were burdened with an increased cost in the way of increased rates of pay, amounting to $116,600.00, same representing increases authorized by the Labor Board (Tr. 4752-4753).

Considering the lines as a whole, that is, the Gulf Coast Lines and International-Great Northern Railroad, we have a line that must meet practically every conceivable difficulty tending to the aggravation of the work of maintenance.

The Gulf Coast Lines crosses practically every important river in Louisiana with the exception of the Red River, while the International-Great Northern crosses every important river in Texas with the exception of the Pecos River and, of course, the Rio Grande and Red Rivers which are on the border lines of Texas. Due to this fact these lines are subjected to damage and interference with traffic during seasons of flood. Such damage and interruption is encountered on the New Orleans, Texas and Mexico whenever the Mississippi and Atchafalaya Rivers are up or out of banks or as a result of crevasses in the levee protection along these rivers. At times interference of this nature causes very heavy damage through the softening of em- [fol. 523] bankments and washing out of tracks and bridges. Similar difficulties are experienced where the Gulf Coast Lines crosses the Brazos River and where the International-Great Northern both crosses the Brazos River and traverses the Brazos River Valley. Again, we have had to contend with exceptional damage due to the overflowing of the Rio Grande, this affecting us particularly in Cameron and Hidalgo Counties. Similar conditions are frequently encountered through the central section of the state between Waco and Ft. Worth. Some of these interruptions are only passing in nature and are overcome in the course of a couple of days while others last several weeks, not only in their direct results but in the continuing necessity of slow operation of trains due to the softened condition of track and roadbed (Tr. 4753-4754).

Much of the line of the Gulf Coast Lines lies in what is called the "Gulf Coastal Territory," where the rainfall is heavy and it is difficult to maintain tracks for high or even normal operating speeds. Such excessive rainfall makes necessary heavy expense in maintaining line and surface of main tracks. The annual rainfall in this territory is about 50 inches in Texas and in Louisiana about fifty-eight inches. Throughout this same Gulf Coastal Territory extraordinary expense is met in the renewals of rails and metal fastenings, spikes, bolts, etc., due to the excessive amount of corrosion present. Over the entire line with the exception of that portion of the Gulf Coast Lines between Kingsville and Raymondville, climatic conditions are such as to foster

a very heavy and rapid growth of weeds and grass. This item in itself necessitates very heavy expenditure in cutting grass and weeds on right of way and cleaning the ballast. On account of the physical location of these lines crossing such a large amount of drainage there is a total of 22.9 miles of bridges and trestles necessary on the Gulf Coast Lines to provide for the passage of drainage. This [fol. 524] item necessitates exceptionally heavy annual charges for maintenance and renewals (Tr. 4755).

There are about 24.3 miles of bridges and trestles on the International-Great Northern. I thought I would let Mr. Schwimm bring that out. While these lines must frequently meet very heavy and continused rainfall, there are also seasons of extended drought which result in particularly aggravated and heavy damage to tracks through the cracking of the embankments. These conditions are not localized to a few short sections but are more or less to be found over practically the entire line from Brownsville to Anchorage. These conditions require a great deal of resurfacing and the application of large amounts of additional ballast. In addition to the local conditions to be met and overcome, the Gulf Coast Lines are particularly subject to damage from tropical storms resulting in heavy damage to such points as are in the path of the hurricane.

During the past years we have had at least seven or eight of these storms of more or less damaging extent. The one at Corpus Christi was particularly expensive. Texas in recent years have shown a steady increase. On the I.-G. N. and Gulf Coast Lines combined during the five years ended December 31, 1923, the average railway tax accruals was $880,869.00 per annum, which was a ratio of 3.19 to Total Operating Revenue. During the year 1924 our two lines paid $1,282,226.00, a ratio of 4.12 to total operating revenue and in the year 1925 we paid $1,263,689.00, which is a ratio of 3.97 to total operating revenue. In other words, on a ratio basis, this increased tax burden in 1924 was $289,723.00 and in 1925 $248,060.00 in comparison with the five year period ended December 31, 1925 (Tr. 4756).

It is a matter of common knowledge that some part of [fol. 525] the increase in our taxes is due to the railroads being compelled to participate in the cost of building highways paralleling our roads, burdening the railroads two

ways, first in increasing our taxes and second in reducing our passenger train earnings. Our local business in the Valley has dropepd off about 55 per cent. Up until this time, every road that has been built has been parallel with the Brownsville Railroad. A further handicap we are confronted with in our present day operation is the heavy falling off in passenger train revenue with no opportunity to offset this decrease by reducing our passenger train expenses accordingly. During the year 1925 the I.-G. N. shows a decrease of $323,776.00 in passenger train revenue compared with the year 1924 and a decrease of $830,934.00 compared with the average of five years ended December 31, 1923. Substantially all these decreases were on our local passenger business. On the Gulf Coast Lines total passenger revenue for 1925 was $50,361.00 less than the earnings in 1924 and $387,211.00 less than the average annual earnings of the five year period ended December 31, 1923. This heavy decrease in passenger earnings is practically all due to private automobile travel and bus line competition, especially on the part of the farmer and the traveling salesman. We also have confronting us the general office statutes. An unusual burden is imposed on lines in our territory by the General Office Statutes of Texas and Louisiana which compel us to maintain separate corporate and departmental organizations in various communities entailing large expenditures which could easily be eliminated if the railroads were given a free hand to make whatever changes they saw fit (Tr. 4757-4758).

I am submitting a condensed profile of the Gulf Coast Lines and the International-Great Northern and a state-[fol. 526] ment showing the physical characteristics and the power situation (Tr. 4758).

The condensed profile of the Gulf Coast Lines was thereupon offered in evidence as Exhibit A-104 and the condesned profile of the I.-G. N. as Exhibit A-105, and the statement showing physical characteristics was offered in evidence as Exhibit A-106.

(Exhibits A-104, A-105, and A-106 were received in evidence.)

I have a statement showing the increase in the tractive power of locomotives (Tr. 4759).

The statement referred to was thereupon offered in evidence as Exhibit A-107.

(Exhibit A-107 was received in evidence.)

I have another exhibit of freight train performance ratio which I ask to have introduced (Tr. 4759).

(Exhibit A-108 was received in evidence.)

[fol. 527] The factor best measuring efficiency of freight train operation is gross ton miles per train hour. Both the I.-G. N. and Gulf Coast Lines show a steady improvement in this factor year by year. During the year 1925 gross ton miles per train hour on the Gulf Coast Lines was 20,029, an increase of 39.01 or 24 per cent compared with the year 1921. On the I.-G. N. average gross ton miles per train hour for the year 1925 was 17,907, an increase of 4,362 or 32 per cent, compared with the year 1921. As indicating better utilization of freight cars it may be stated that for the year 1925 the Gulf Coast Lines average miles per car per day was 38.0 compared with 23.2 in the year 1921, an increase of 68 per cent. On the I.-G. N. average miles per car per day in the year 1925 was 27.0, an increase of 4.9 compared with the year 1921 or 22.1 per cent. We show a steady improvement in the utilization of motive power. On the Gulf Coast Lines average miles per locomotive day in freight service increased from 53.6 in 1921 to 70.4 in 1925, and in passenger service from 120.9 to 165.5 in the same period. On the I.-G. N. average miles per locomotive day in freight service increased from 69.9 in 1921 to 79.9 in 1925, while in passenger service we show a slight decrease from 115.1 in 1921 to 111.3 in 1925 (Tr. 4759-4760).

Marked improvement is noted in our fuel performance, Gulf Coast Lines pounds of coal (oil equated to coal on basis 4 barrels to one ton) per thousand gross ton miles in 1925 was 102 compared with 108 in 1924 and 124 in 1921. On the I.-G. N. pounds of coal per thousand gross ton miles in 1925 was 115 compared with 122 in 1924 and 158 in 1921. We also show improved fuel performance in other classes of service. The savings accomplished due to decreased unit consumption of fuel, all classes of service, for our two lines [fol. 528] combined, for the year 1925, compared with 1924, amounted to $107,377.00.

We have a Fuel Superintendent and the Division fuel force, we have our road foreman of engines and a superintendent of fuel who are constantly employed in this work and keeping it before the individual men. In addition to that we keep the individual fuel performance of each engine with the engineer and the engineer's record. We are spending a lot of money in that department to save as much money as we can (Tr. 4760-4761).

In our safety first work we are actively engaged in a vigorous campaign, having as its object the rousing of interest among the rank and file in safety first work. We are doing this through the channels of local safety first committees with regular monthly meetings and by the continual reiteration of safety first principles through the medium of literature on the subject and talks by officials. The railroads are trying to eliminate every possible condition that might be dangerous to life and limb. Expenditures by our railroads, in the way of personal injury payments, run into hundreds of thousand of dollars and a vast saving is possible through the proper education of employes and the proper observance of safety first rules by employes. Texas is as bad as can be for high verdicts in personal injury cases. We are making progress in reducing the number of casualties on our roads. The casualty rate of employes on duty per million man hours on the Gulf Coast Lines in the first 11 months 1925 was 40.84 compared with 47.47 in the same period of 1924. On the I. G. N. the same factor shows a reduction from 42.75 to 35.67 in the same period. The casualty rate per million locomotive miles for train and train service accidents for the first 11 months of 1925 on G. C. L. was 44.92 and I. G. N. 41.12, a [fol. 529] reduction of 4.75 and 12.02 respectively compared with the same period previous year. Although we are making some headway in the reduction of personal injury claims our payments for casualty claims do not show any material decrease, this for the reason that year by year there seems to be a tendency on the part of juries to saddle on the railroads settlements which are entirely unreasonable and not at all justified by the evidence (Tr. 4761-4762).

Another great waste in railroad operation is Loss and Damage to freight. This matter is receiving our constant attention and we have been able to show a continued re-

duction in this expense for several years past. The ratio of Loss and Damage Freight payments to total freight revenue on the I. G. N. and G. C. L. combined in the year 1925 was .668 which is a very favorable showing compared with other railroads, especially when we consider the great volume of perishable traffic. At that, though, this expense is entirely unproductive and by intensified effort may be still further reduced.

Something might also be said with reference to the efforts we are putting forth to help develop and improve agriculture on our line. We have had for some years past, and contemplate the continuance of, a staff of expert assistants, whose duties include the education of farming communities in the best methods of raising their crops and as to what crops are best adapted to certain territories. While this work is a benefit to farmers, it also reacts to the benefit of the railroad. This work is mentioned here as indicating another step we have taken to raise the standard of service on our properties to place them on a parity with older established roads where they have always given this service. This expense is essential to the development of the territory served and the consequent increase of [fol. 530] traffic (Tr. 4762-4763).

The roads in the central west and northwest serve a territory which, generally speaking, is already pretty well developed. The territory served by the Southwestern Lines, particularly those in Texas, Louisiana, Arkansas and Oklahoma is still largely virgin from the point of view of the possibilities of production and consumption. This Southwestern territory has gone through the initial period of development and the traffic in and through it, and the public demands for transportation facilities are growing by leaps and bounds. New lines will have to be built to serve large portions of the territory that have no railroad facilities at all. At this time these will probably have to be built or financed by existing trunk lines on account of the extreme difficulty, if not the impossibility, of financing an independent railroad venture of any magnitude. Terminals must be greatly enlarged and substantial new terminals constructed, such as classification yards. These must be built for the future, and must be of substantially greater

capacity than is required by the business of today or tomorrow, or we shall find ourselves 5 or 10 years from now without ample terminals designed for efficient and economical operation. It should be noted in this connection that terminals of this kind are largely non-productive. They produce no new business. They are merely instrumentalities for the better handling of the business originating elsewhere.

These improvements cannot be provided for out of earnings. Under the Transportation Act the I. C. C. has no discretion to allow a return of more than one half of one per cent to provide for betterments and this is wholly inadequate for our purposes. This means that we must secure new capital by the sale of securities. Obviously these securities cannot be sold unless the earnings of the south-[fol. 531] western roads are sufficiently high to attract it (Tr. 4763-4764).

The vegetable traffic out of the Rio Grande Valley is a seasonable movement. It begins in the latter part of November in a small way and steadily increases until we get to the peak about April. It is necessary for us to keep at all times about a thousand cars on our lines to take care of our vegetable movement. Even today, some days we have twenty cars out there. Tomorrow we may have 75. For instance day before yesterday we had on Tuesday, well that was yesterday, we had 21 cars. Today we have got 79 cars coming out of the valley and that makes it absolutely necessary that we get together a large amount or a large number rather of refrigerators and take them to the valley and hold them for this business. The movement of those refrigerator cars down to the Valley is entirely an empty movement (Tr. 4764-4765).

Cross-examination:

About 70 per cent of this vegetable traffic goes through the St. Louis gateway and finds its destination largely at Chicago. It is gradually increasing to the east. I should say probably 20 per cent of it goes east. The percentage going east from St. Louis is increasing (Tr. 4765).

The lines included as a part of the Gulf Coast Lines are the New Orleans, Texas ans Mexico, the parent company

that runs from Anchorage to De Quincy. Included with the New Orleans, Texas and Mexico is the Beaumont, Sour Lake and Western. That is the line between Beaumont and Houston which connects with the Kansas City Southern, over which we have a trackage agreement. There is also the St. Louis, Brownsville and Mexico. There has been a consolidation of those three lines with the International-[fol. 532] Great Northern. The Orange and Northwestern and the New Iberia and Northern are also a part of the Gulf Coast Lines. That comprises the list of all the carriers in that system (Tr. 4766).

I think the Gulf Coast Lines have used oil as fuel for their locomotives practically always. When the Frisco operated the Gulf Coast Lines for a time operated coal engines but they were changed as fast as they could change them. We have never had a crisis with respect to our oil prior to now. This is the most serious condition we have ever had. We are paying all sorts of prices for our oil now. We haven't a contract at this time. It is costing us about $1.55 per barrel with the transportation added. We have not been able to get a contract. We have gotten bids and have had men out to secure oil for us. We have declined contracts because of the price. I think the lowest contract price we have had offered is in the neighborhood of $1.60 if I remember correctly. We have been buying spot oil wherever we could get it, and wherever we could get it cheaper. I can't say that I anticipate lower prices. We have gotten to the point now where we have almost got to go back to coal if we have to pay in excess of the $1.55. I suppose we would get our coal in Arkansas. We are trying now some experiments on the L.-G. N. now. We are trying to burn lignite. We have got a couple of engines equipped and it really looks as though we might do something with it. We have not got to the point yet where we know whether it would be cheaper to have our coal hauled from Arkansas and Oklahoma to the coast. We have assurances from the oil companies that there isn't any possibility of the price of oil going lower; that it is going higher. I cannot say that there is any assurance that the Gulf Coast Lines are going to change to coal. I merely said we are making a very careful

investigation of it and the time is now here when the price of oil is almost going to make it compulsory except for [fol. 533] passenger engines. This situation with regard to oil has been going on for the last year or year and a half—since back in 1924 possibly (Tr. 4766-4767-4768-4769).

The development of Texas has been pretty rapid in the last few years. It is increasing all the time. There is indication of its being a very large producer of traffic before it is finished. It is going along steadily. I think that it is going to continue (Tr. 4769).

F. S. SCHWIMM was thereupon called as a witness and testified as follows:

Direct examination:

I am Assistant Chief Engineer of the Gulf Coast Lines-International-Great Northern Railroad. I have been connected with the International-Great Northern for nine years in the Engineering Maintenance and Construction Departments. I have prepared some testimony in connection with the cost of maintenance of way and structures in the *w*outhwest as compared with other regions (Tr. 4771).

During the past year as sub-committee chairman of the American Railway Engineering Association's committee on the public economics of railway matters, I was engaged in making a study of maintenance expense as compared with miles of line maintained and operated and as compared with traffic density for the purpose of establishing units of measure of work performed. In connection with this study I received returns from 41 carriers representing 120,205 miles of operated lines, these returns being furnished by the chief engineers or the responsible maintenance officers of the carriers replying to my questionnaire. Included in these returns was information covering the amount of mileage maintained and its description, the amount of traffic handled over the line, the maximum speed, passenger and freight train, as well as the charges to main- [fol. 534] tenance account for way and structure for the years 1923 and 1924. In analyzing these charges I elimi-

nated the extraordinary maintenance items due to such expenses as were the result of out of face renewal of magnitude and extraordinary causes, such as abandonment of line, line changes, terminal rearrangements, and other large construction jobs, flood damage, large fire losses and so forth, resulting in operating charges not of an ordinary maintenance character. The results of my studies which covered 22,359 miles in the northwestern region, 46,200 in the central western region, and 6,728 miles in the southwestern region of Class A roads, as well as 4,377 miles in the Northwestern region, 5,156 miles in the central western region, and 3,483 miles in the southwestern region of Class B roads were as follows: The ordinary maintenance of way cost per equated mile of property maintained for Class A railroads per year for the years 1923 and 1924 was: northwestern region $1,727.00; central western region $2,026.00; southwestern region $2,286.00. The maintenance of way cost per mile of line during same period on Class B roads was: northwestern region $1,242.00; central western region $1,679.00; southwestern region $1,986.00 (Tr. 4771-4772-4773).

From the foregoing figures it will be readily seen that the ordinary maintenance costs encountered by the carriers in the southwestern region are considerably greater when based upon equated miles maintained and operated than is the case of carriers located in the central western and northwestern regions. I made further study of maintenance of way costs as reflected when considering car miles handled per mile of line operated, the maintenance of way costs per 1,000 car miles per mile of line during the years 1923 and 1924 were: Class A railroads, northwestern re-
[fol. 535] gion $28.00; Class B railroads, northwestern region $28.00; average northwestern region $28.00. Class A railroads, central western region $29.00; Class B railroads central western region $39.00; average central western region $34.00. Class A railroads southwestern region $35.00; Class B railroads southwestern region $35.00; average southwestern region $35.00. Again we find the maintenance of way costs covering all charges other than of an extraordinary nature were heavier on the basis of volume of traffic handled in the southwestern region than they were in either

the central western or northwestern regions. I made further analysis of charges for operating account, an example of which is found in Account No. 212, which includes the cost of tie renewals. The cost of tie renewals per equated mile operated and maintained is given below: Class A railroads northwestern region $250.00; Class B railroads northwestern region $319.00. Class A railroads central western region $262.00; Class B railroads central western region $336.00; Class A railroads central western region $507.00; Class B railroads southwestern region $410.00 (Tr. 4773-4774).

The foregoing tabulations clearly indicate that the costs per year per equated mile maintained and operated were higher in the southwestern region than in the two other regions. These same costs when considered on the basis of traffic volume or per one thousand car miles per mile of line operated indicated the same differences and were as follows: Class A railroads northwestern region 41¢; Class B railroads northwestern region 71¢. Class A railroads central western region 37¢; Class B railroads central western region 79¢. Class A railroads southwestern region 78¢; Class B railroads southwestern region 73¢. In only one comparison is it found that the tie renewals were less on the southwestern lines and that was in the case of Class B rail- [fol. 536] roads, which were found to be less than the Class B railroads in central western territory although they were higher than Class B railroads in northwestern territory. In explanation of the classification of railroads used I wish to say that I adopted the same classification as is printed in the 1921 manual of the American Railway Engineering Association, which is briefly as follows: Class A includes all districts of railway having more than one main track or those districts of a railway having a single main track with a track that equals or exceeds the following: Freight car mileage traffic over district per year per mile 150,000, or a passenger car mileage per year per mile of district 10,000, with maximum speed of passenger trains 50 miles per hour. Class B includes all districts of railway having a single main track with a traffic that is less than the minimum prescribed for Class A and that equals or exceeds the following: Freight car mileage traffic over district per year

per mile 50,000, or passenger car mileage per year per mile of district 5,000, with maximum speed of passenger trains 40 miles per hour. In converting the miles operated in order to get the equivalent and equated mileage to be maintained I have used the equivalent which has been used by the A. R. E. A. in many similar cases and which are as follows: 1 mile of first main track is equivalent to 1.15 miles of second main track; 1.33 miles of third or fourth main track; 2 miles of branch line track; 2 miles of passing or thoroughfare track; 3.33 miles of yard track; 12 main line switches; 25 track switches; 10 railroad crossings; 12 city street crossings; 25 to 50 county road crossings; one half mile of track pans or 4 miles of ditches. In my opinion the underlying cause for maintenance expenses being higher in the southwestern region is due to the fact that the carriers in this [fol. 537] territory are not as old as the carriers in the central western and the northwestern regions. They are not as well developed physically although their development has been carried forward so far as funds for development were available.

The railways in the northwestern and central western territory are on the average fifteen to twenty years older and are therefore better established and can be operated more economically; the older railroads are more seasoned and have gone through the process of adaptation resulting in the greater economies of operation as reflected in the maintenance charges for way and structure. (Tr. 4774, 4775, 4776).

Cross examination:

I used the standard regional divisions which are and have been in effect since Federal control days for the purpose *for the purpose* of fixing the boundaries of central western, northwestern and southwestern regions. Those are the regions that extend across the Mississippi River and the Great Lakes to the Pacific Coast. They are not entirely horizontal divisions of the country. I don't have a list of the carriers with me that are included in the southwest region, in the central western region or in any of this study. The information received from those carriers is usually, in

so far as the individual carrier is concerned, confidential (Tr. 4777).

Here a discussion arose as to whether or not the information which Attorney Towner sought was confidential in its nature. The witness thereupon said that the groups were those carved out by the Accounting Division of the Commission, as the statistics were issued from month to month; that he received the information from a carrier and that information was assigned to the district in which that carrier was placed by the Commission; that the classification [fol. 538] may have been instituted by the railroad administration but has been followed generally by the Commission and the carriers (Tr. 4777-4778).

The Witness (continuing): The information upon which I based my statement of costs was obtained through a questionnaire distributed to the carriers. They reported to me the maintenance of way charges by account exactly duplicating their returns to the Interstate Commerce Commission. I had the statement as to what they have spent in money and further than that they segregated the monies spent for extraordinary purposes. I was able to designate what was spent for ordinary maintenance. I didn't go back of the answers to those inquiries, but accepted at their face value the statements that were made by the various carriers (Tr. 4778-4779).

I mean by equated mile of road: That is a term used to indicate a weighted volume of property to be maintained, reflected in main line mileage. I use all main track mileage, giving each mile the value of one and then I consider the branch track mileage and the siding mileage and other physical properties which must be maintained, converting it to an equivalent of the main line mileage (Tr. 4779-4780).

The classification as to extraordinary and ordinary maintenance expense was made by the officers of the various carriers in furnishing their returns and I accepted the information given me as being correct (Tr. 4780).

I would say that in probably 15 or 20 years from now the maintenance expenses in the southwest would be as low as they now are in the central west or northwest regions, assuming the costs to be on the same level. The excess costs in the southwestern region are due to the inherent diffi-

culties surrounding the maintenance of newer properties. It would appear that when the newness has been overcome [fol. 539] the difficulty would disappear in a great measure at least. I arrived at my conclusion that it would take fifteen or twenty years for the southwestern carriers to reach the basis in the central west and northwest by considering the age of the carriers in the southwest region. Their age is approximately fifteen or twenty years less as an average. I don't think a larger expense along that line by the southwestern lines would operate to decrease the period of fifteen or twenty years that I have mentioned. I believe that nothing but time will overcome that condition (Tr. 4780-4781).

I don't recall the exact definition of the Commission's Class 1, and Class 2 Carriers, but the Class A and B carriers as referred to by me and defined in the manual of the American Railway Engineering Association has reference to the physical conditions and requirements of a carrier. I will accept the statement that the total mileage of the roads that this book calls northwestern region is 48,574 miles and the total mileage in the central western region was 51,797 miles and that the total mileage in the southwestern region was 32,839 miles. I do not care to make public the names of the carriers that furnished the information to me (Tr. 4782).

Mr. Towner: I would like to have the record show the names of the Class I carriers operating in these three various groups as taken from this report of the Bureau of Railway Economics of November 1925. I take it that they would be accepted by everybody without proof. I have it here if anybody cares to look at it (Tr. 4783).

The Witness (continuing): I am not clear as to the meaning of Class one roads. The Class A railroad is a railroad [fol. 540] having more than one main track or those districts of a railway having a single main track with a traffic that equals or exceeds a freight car mileage passing over the district per year per mile of 150,000 or a passenger car mileage per year per mile of district of 10,000 with a maximum speed of passenger trains of 50 miles per hour (Tr. 4783-4784).

Attorney Towner here said that it didn't seem to him that it made any particular difference whether they are designated as Class one or Class A; that the roads contained in the statement he desired to introduce, classified by the Commission in operating territory, were the principal lines. He said that he desired to put in the names of the carriers in the three districts as shown by the report he had referred to and that if there was no objection he would hand it to the reporter then and ask him to copy the list.

Mr. Larimore: All right, there is no objection. Of course you understand, Mr. Towner, in putting in that exhibit or statement, rather, that the Class A roads does not necessarily mean Class 1 according to the witness' description of what constitutes a Class A road?

Mr. Towner: Yes, I appreciate that. I say all that I want is the names of the principal carriers operating in the three districts. It doesn't make any difference whether they are operating as Class A or Class 1. They are the principal lines in those districts (Tr. 4784-4785).

The Witness (continuing): In those instances Class A would be Class 1.

The list of carriers referred to by Attorney Towner follows:

[fol. 541] Railways of Class I and Large Switching & Terminal Companies

Northwestern Region.—Chicago & Northwestern; Chicago Great Western; Chicago, Milwaukee & St. Paul; *Chicago River & Indiana R. R.; Chicago, St. Paul, Minn. & Omaha; Duluth & Iron Range; Duluth, Missabe & Northern; Duluth, South Shore & Atlantic; Duluth, Winnepeg & Pacific; Great Northern; Green Bay & Western; Lake Superior & Ishpeming; Minneapolis & St. Louis; Minn., St. Paul & Sault Ste. Marie; Northern Pacific; Oregon-Washington R. R. & Nav. Co.; Spokane International; Spokane, Portland & Seattle.

Central Western Region.—Atchison, Topeka & Santa Fe Sys.; Bingham & Garfield; Chicago & Alton; Chicago, Burlington & Quincy; Chicago, Peoria & St. Louis; Chicago, Rock Island & Gulf; Chicago, Rock Island & Pacific; Colorado & Southern; Denver & Rio Grande Western; Denver &

Salt Lake; Nevada Northern; Northwestern Pacific; Oregon Short Line; Panhandle & Santa Fe; *Peoria & Pekin Union; Quincy, Omaha & Kansas City; St. Joseph & Grand Island; Southern Pacific System; Toledo, Peoria & Western; Union Pacific; Utah Railway; Western Pacific.

Southwestern Region.—Fort Smith & Western; Fort Worth & Rio Grande; Galveston, Harris. & San Antonio; *Galveston Wharf; Gulf Coast Lines: Beaumont, Sour Lake & Western,—New Orleans, Texas & Mexico,—St. Louis, Brownsville & Mexico; Gulf, Colorado & Santa Fe; Houston & Texas Central; Houston East & West Texas; International-Great Northern; Kansas City, Mexico & Orient; Kan. City, Mexico & Orient of Tex.; Kansas City Southern; Kansas, Oklahoma & Gulf; Louisiana & Arkansas; Louisiana Ry. & Nav. Co.; Louisiana Ry. & Nav. Co. of Tex.; Louisiana Western; Midland Valley; Missouri & North [fol. 542] Arkansas; Missouri-Kan.-Tex. (Incl. W. F. & N. W.); Missouri-Kansas-Texas of Tex.; Missouri Pacific; Morgan's La. & Tex. R. R. & S. S. Co.; *St. Louis Merchants Bridge Term.; St. Louis-San Francisco System; St. Louis, San Francisco & Texas; St. Louis Southwestern; St. Louis Southwestern of Tex.; *St. Louis Transfer; San Antonio & Aransas Pass; San Antonio, Uvalde & Gulf; Southern Pacific-Atl. S. S. Lines; *Terminal R. R. Ass'n of St. Louis; Texarkana & Fort Smith, Texas & New Orleans; Texas & Pacific; Trinity & Brazos Valley; Vicksburg, Shreveport & Pacific; Wichita Valley (Tr. 4785-4786-4787).

I started and concluded this whole investigation within the year 1925. It was concluded in November, 1925 (Tr. 4787).

Here Attorney Boyd said that without testifying he wanted to state the position of the Orient Railroad in the record.

Mr. Boyd: Because before I tender to the Southwestern carriers the only witness that I have here, I expect to have the record show exactly our position in the case.

The Kansas City, Mexico & Orient Railroad Company, William T. Kemper, Receiver, and the Kansas City, Mexico

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(*Switching and terminal companies.)

and Orient Railway Company, and Kansas City, Mexico and Orient Railway Company of Texas, operating a line of railroad in the United States from Wichita, Kansas, through the State of Oklahoma and the State of Texas, to Alpine, Texas, a distance of 737 miles, being under one management and control, constitutes the Orient System, and will be hereinafter referred to as the "Orient."

After the decision of the Interstate Commerce Commission in Increased Rates Case, Ex parte 74 (58 I. C. C. 220), and decisions supplemental thereto, the Orient in good faith applied the rates as increased by the Commission and endeavored to carry on its operation under those rates. After [fol. 543] the exercise of every economy and the application of every expedient possible to the reduction of expenses and after using all possible efforts toward the reduction of the amount which would have to be paid by way of taxes, the Orient found that it was absolutely impossible to pay its operating expenses and taxes from the revenues accruing and as divided under existing divisions between the Orient and its connections and other carriers. It found that the results of these operations under the rates as then existing and as so divided created enormous operating deficits. The Orient was, therefore, confronted with the problem of either an absolute abandonment of the line serving a very large and exclusive territory, or of providing a means of increasing its revenues.

With this situation staring the Management of the Orient in the face, in February, 1922, an application was filed with the Commission requesting the Commission to make an investigation to determine as to whether or not the divisions accruing to the Orient from its connections were fair and reasonable. After due consideration, in April, 1922, under Docket No. 13668, the Commission by appropriate notices and proceedings, entered upon an exhaustive investigation. The hearing upon this investigation began in Washington, D. C., May 15, 1922, and continued through May 16, 1922. At this hearing the Orient and the respondent lines who were the connections of the Orient introduced 42 exhibits, and oral testimony, creating a record of some 256 pages. At this hearing, the operating conditions, the revenues, grades and curves, traffic density, typical rates and divis- [fol. 544] ions and all other matters pertinent to the inquiry were gone into in detail. The Examiner's report was

made and elaborate exceptions and briefs filed in the case, and the case was submitted on May 16, 1922, and decided by the Commission, August 9, 1922 (73 I. C. C. 319). By this decision the divisions accruing to the Orient on traffic moving between the Orient and its connections were increased by various per cents (Tr. 4788-4789).

On September 13, 1922, the connections of the Orient, who were the respondents in the case before the Commission filed in the United States Court for the District of Kansas, a bill for injunction, the purpose of which bill was to set aside the order of the Commission, principally upon the ground that the Commission had decided the case without considering all of the rates and divisions, or a sufficient number thereof between the carriers to determine the question of reasonableness or unreasonableness of the divisions. A temporary injunction was granted and by decision of the United States Court for the District of Kansas, sitting at Denver, Colorado, the Court upon final hearing made the injunction permanent. This decision was handed down March 16, 1923 (288 Federal 102). By this decision the Court found the Commission had the power under the law to determine the question involved, but held that the Commission had not made sufficient investigation as to particular rates and divisions and had not made its investigation sufficiently broad.

From the decision of the United States Court for the District of Kansas, granting the injunction in the case of Abilene & Southern Railway Company et al. versus United States (288 Federal 102), appeal was taken to the United [fol. 545] States Supreme Court (United States versus Abilene & Southern et al., 265 U. S. 274, 44 Supreme Court Report 565). This case was argued March 4, 1924, and decided May 26, 1924, and the decision of the United States District Court was affirmed. In this decision the Supreme Court fully sustained the action and power of the Commission in all particulars, but held that the record did not contain tariffs showing individual joint rates, or the division sheets showing how these individual joint rates are divided, or information concerning the amount of service performed by the Orient and its connections to such individual joint rates (Tr. 4790-4791).

After the decision of the Supreme Court of the United States, the Commission, by appropriate order, re-opened

the case for further investigation and further evidence, and the matter came on for hearing in Washington, D. C., July 30, 1924. This hearing continued until August 6, 1924, and was adjourned until September 2, 1924, and then continued until September 10, 1924. At this hearing there were introduced in evidence by the parties, additional exhibits in excess of 1,000, and oral testimony taken creating a record of something like 1,918 pages. The total record in the case composed some 2,174 pages of oral testimony and over 1,100 exhibits. These exhibits showed the revenues accruing to the various lines involved, the operating conditions, the traffic density, the territory served, the population, land values, grades and curves, all rates and divisions, the methods of divisions, the economies practiced, the service performed, the difficulties of operation, the sources of fuel supplies and materials, the condition of rolling stock and equipment, the sources of traffic, differential rates and [fol. 546] arbitraries and traffic created thereby, which differentials have been lost, the methods of reducing expenses and taxes, the reduction in payrolls, the revenues needed for the maintenance of way and equipment, the efficiency of the operations, the need of the communities for the transportation service, and every fact and factor which would enable the Commission by the most thorough and painstaking investigation to determine and to arrive at an opinion as to whether or not the division of rates accruing to the Orient were reasonable and fair under all the circumstances.

As a result of this very painstaking and very thorough investigation, and after exceptions had been filed, and after elaborate briefs and extended argument before the whole Commission, the Commission decided the case. The case was submitted after argument before the whole Commission on January 9, 1925, and the Commission, under date of February 9, 1925, handed down its decision increasing the divisions accruing to the Orient on traffic interchanged with its connections by the percentages named in that order (96 I. C. C. 368).

The Commission, therefore, after a very full and exhaustive hearing as to all the circumstances and conditions surrounding and involved in the territory served by the Orient in the southwest has determined and adjudicated

the divisions that should accrue to the Orient on business interchanged with its connections, and such a decision so far as the Orient is concerned becomes res adjudicata in the case now under consideration (Tr. 4791-4792).

It is to be noted also that the decision of the Commission in the Orient Divisions Case was submitted January 9, 1925, and decided February 9, 1925, and that in the short [fol. 547] period of time since these dates, there could not occur any change of conditions which would be sufficient to justify a re-examination and re-determination of that case.

It is also to be noted that at the time the Commission was considering and trying the Orient Divisions case, the present investigation was under consideration by the Commission, and the devision of the Commission, therefore, in the Orient's case was made with full knowledge of the present investigation, and had the Commission intended that the status of the Orient's position as to divisions accruing to them on traffic interchanged with southwestern lines and its connections, and incidentally with western trunk lines should be modified, or in any way changed by the decision of the Commission in the present case, it would have, no doubt, made some reference thereto.

We, therefore, take the position that as to divisions accruing to the Orient on traffic interchanged with its connections, the Commission has made a full and final determination which is conclusive against any order which would reduce the revenues of the Orient, which may be made by the Commission in connection with the present hearing.

We, therefore, respectfully submit that if upon final hearing in the present case, under Docket No. 15234, that the divisions as between western trunk lines and southwestern freight bureau lines are to be increased in favor of the western trunk lines, the Orient must be exempted from the application of such an order.

If it shall be determined that in the investigation in dealing with the southwestern lines generally, the operating [fol. 548] difficulties and activities of the Orient as a southwestern line should be taken into consideration in connection with the general territory of the southwest, we will be glad to have an operating witness present, to present such facts as the Commission may desire on the subject. It is to be distinctly understood, however, that in present-

ing such a witness, we do so as an aid to the Commission in its general investigation of the southwestern territory, and at the same time insisting that as to the divisions accruing to the Orient, the matter has been determined.

If, in the present case, a decision shall be made, or a proposed report shall be presented, which will in any way reduce the revenues accruing to the Orient, or reduce its divisions, we shall reserve the right to present appropriate exceptions thereto, and to ask for a further hearing and presentation of proof.

Exam. Disque: Is there an order still outstanding fixing any certain amount, as the divisions that you are to receive for all future time? (Tr. 4793-4-4795.)

Mr. Boyd: What do you say?

Exam. Disque: Is the order in the Orient case outstanding today?

Mr. Boyd: Yes, sir.

Exam. Disque: Which says that these divisions which you now receive shall continue in effect until the further order of the Commission?

Mr. Boyd: Yes.

Exam. Disque: And does it fix certain specific figures as your proportion or say that you shall get a certain increased percentage over the standard division at the time [fol. 549] they state, at the time of the order?

Mr. Muckley: They took the division that existed at the time the order was made and increased the Orient's proportion. Sometimes the increase was applied to the Orient's connections and sometimes to the Orient's proportions.

Exam. Disque: Well are these proportions percentage proportions or money proportions?

Mr. Muckley: Well there is no specific money proportion on any particular traffic. It just says take your first divi- and increase the Orient a certain percent, that is all.

Mr. Roberts: That was confined, however, to the immediate connections; no other carriers.

Mr. Muckley: Immediate connections, but some of them were western trunk lines as well as southwestern lines (Tr. 4796).

The Examiner here said that in this case the Commission could increase or reduce the portion north of Kansas City without specifically saying what the lines south of Kansas City should do for the Orient, and that he didn't see that the Orient had any particular place in this record so far as division north and south of the gateway is concerned. Attorney Towner said that it occupied about the same position as the other southwestern lines occupy, such as the Texas and Pacific and the Gulf Coast Lines. The Examiner now said that the Commission could change the divisions north and south of Kansas City and north and south of St. Louis and then in a separate proceeding the lines south of Kansas City and south of St. Louis could divide amongst themselves what was left. Attorney Muckley said that if the proportion south of Kansas City was reduced, the Orient's proportion would also be automatically reduced as he understood it, under the present percentage basis, and that that would not violate the existing order [fol. 550] of the Commission in his opinion (Tr. 4797).

J. A. SHEPHERD was thereupon called as a witness and testified as follows:

Direct examination:

I live at Wichita, Kansas, and am Assistant to the General Manager and Superintendent of Car Service of the Orient Railroad. Attorney Towner conceded the witness' qualifications (Tr. 4797-4798).

I have prepared a statement of the situation of the operating condition of the Orient Lines generally. The history of the Orient railroad as one of the southwestern lines has been filled with financial difficulties and handicaps which has made its continued operation a serious problem, and its situation has always been and is now one that has required more money than its revenues produced. In order to show that no order of the Commission which may be made in this case should have the result of reducing the revenues which accrue to the Orient lines on its traffic, it is but necessary to call attention to certain of the major difficulties surrounding its operations (Tr. 4798).

1. The deficits accruing on this railroad from the year 1920 to 1924 (the last full year's figures available) have been as follows: 1920 $1,482,606.97; 1921 $956,740.49; 1922 $624,893.60; 1923 $170,101.45; 1924 $7,798.04; so that the total deficits from 1920 to 1924 inclusive accruing on this line were $3,242,139.55.

2. The Orient secured a loan from the United States Government in the sum of $2,500,000.00 and the forebearance of the Government in the collection of this loan and [fol. 551] in the collection of the accrued interest thereon has enabled the Orient to continue its operations.

3. The fact that the revenues accruing to the Orient from traffic moving over its line have been insufficient to meet its expenses even by the exercise of the most rigid economy has resulted in a very serious under-maintenance of equipment, structures and road. The under-maintenance of equipment has also caused an enormous expenditure in per diem and car hire on foreign line cars, and in excessive repair bills on its own equipment. The roadbed over the entire line is without ballast and is very sensitive to climatic conditions which greatly increases its cost of maintenance. The Orient crosses a number of dangerous streams in Oklahoma and Texas. Practically all of the bridges on the Orient are of wooden construction on piling. There are on the Orient more than 13 miles of bridges and trestles which require heavy repair bills to maintain. A large number of the cars owned by the Orient railroad, on account of lack of funds, are in such condition as not to be acceptable by foreign lines in interchange. The locomotives with few exceptions are old, requiring heavy repair bills in order to keep them in operation, and were equipped with obsolete valves resulting in excessive fuel consumption. Every bit of money which it has been able to procure has been necessarily used in putting the track in shape for operation and the cars in condition to be used, and to make the locomotives fit for service.

4. There are no timber lands, coal mines, or other mill or manufacturing plants on the Orient lines. This necessitates the purchase of all materials, supplies and fuel off the line, and the great distances from the road necessitate

[fol. 552] the payment of large freight bills on all fuel, ties, materials and all other supplies necessary to be used. In fact the very lack of funds has made it necessary to buy materials and supplies to meet temporary demands in small quantities thereby preventing the Orient from securing large quantity prices or favorable long time contracts (Tr. 4799-4800).

5. The local traffic produced upon the railroad has never been sufficient to maintain the line. It is, therefore, necessary to secure as much overhead traffic as possible. In order to secure this traffic in competition with other railroads it is necessary to maintain regular schedules on through freight trains. The number of these trains have been reduced to the minimum consistent with the service. On account of the light traffic which the Orient has been able to secure, the tonnage on these trains has been light and never, except in very rare intervals, up to the capacity of the engines necessary to be used.

6. The traffic originating on the Orient railroad is such as is usually produced in cattle raising and farming communities. The percentage of this traffic to the whole traffic handled is probably larger on the Orient railroad than on any line in the southwest. Live stock constitutes a very large percentage of the traffic handled by the Orient. This traffic is produced principally in western and southwestern Texas and moves uniformly to the north and east. This necessitates the handling of empty cars over a large mileage to care for the traffic as well as the expenditure of a large amount in car rental for foreign cars. In fact, the empty car mileage on the Orient railroad for this traffic equals ans sometimes exceeds the loaded car mileage. The [fol. 553] fact that this traffic moves in one direction also necessitates the moving of light trains of engine and caboose in order to handle the stock. This traffic moves during certain seasons in large quantities and in other seasons there is practically no movement. During the rush season it becomes necessary to call upon foreign lines for sufficient cars to handle the traffic and it frequently occurs that the foreign line furnishing the cars demands a haul on the loaded traffic. This frequently results in creating for the Orient a short haul on traffic upon which it could enjoy a

long haul if it were sufficiently equipped with stock cars. It is well known that the bedding of cars, the maintenance of stock pens, and the excessive loss and damage claims growing out of the handling of live stock render this traffic very expensive to handle, and in many instances, non-remunerative. While this is generally true over all railroads which handle live stock. It constitutes an unusual burden upon the Orient because of the large percentage which the live stock traffic bears to its total traffic.

Another commodity which constitutes a large percentage of the Orient traffic is cotton. This commodity is expensive to handle because the expense of loading is borne by the originating carrier. Cars are detained at compresses on an average of five days during the cotton season upon which per diem has to be paid. The expense of inspection is borne by the carrier. The nature of the commodity is such that it is peculiarly subjected to risks of fire, necessitating the carrying of insurance upon this commodity alone, and the cost of various expedients for the protection of the property against fire such as guards, water supplies and equipment, platform for loading and unloading and other incidental expenses peculiar to the handling of this commodity (Tr. 4800-4801-4802).

[fol. 554] Grain is another commodity which constitutes a large percentage of the Orient traffic. This commodity requires the use of cars in the best possible condition. On account of the condition of the Orient equipment from lack of funds, the greater portion of grain handled on the Orient railroad must be handled in foreign line cars, and in order to have these cars for use when needed during the grain season they must be accumulated and stored for some time before they are actually used, resulting in a very heavy per diem cost to the road. The carrier originating the traffic must furnish paper, lath, nails, and *f*rain doors for coopering the cars. The cars used for grain traffic are subject to numerous costs for light repairs to make them fit for grain loading. The traffic is such that it requires a large amount of absorption of switching charges and an unusual amount of backhauling movement. This commodity also produces a large number and amount of loss an damage claims growing out of leakage and other incidents to which the traffic is peculiarly liable.

7. Not only does the Orient serve a farming and cattle raising territory, but the territory which it serves has a very low traffic density. In fact the traffic density on the Orient line is probably lower than that of any line in the southwest.

8. A profile map of the Orient railroad will show that there are numerous heavy grades at various points which on account of lack of funds this line has been unable to reduce. This results in low engine ratings which could otherwise be avoided and creates a very adverse operating condition.

9. The Orient is required to operate local freight trains over its entire line on week days to handle local merchan- [fol. 555] dise, short loads, and to take care of the local switching. During the first half of the year the local business on this line is very light and the engines do not handle more than 25 per cent of their rating (Tr. 4803-4804).

10. The Orient has tried every possible expedient to keep its expenses within its income, and has tried every possible expedient to increase its revenues. It has combined departments so as to reduce to the minimum its general office expenses. It has increased the duty of officers by consolidation of departments. It has successfully appealed to the various tax authorities for a reduction of taxes. It has vigorously fought every attempt to raise the wages of its employees to standard rates of pay. It has not only made its purchases of any material as small as possible, but has made every use possible of scrap and reclaimed materials. It has undertaken to increase its revenues by the increase of tonnage handled over its line. This it has done by two expedients, first, by a very vigorous soliciting campaign not only by its paid solicitors, but by the cooperation of the employees in every department of its service. It succeeded in 1923 in inducing the other railroads to permit it to become a differential route so that carload traffic moving over the Orient as an intermediate carrier was subject to a differential of $7.50 per car under standard rates on certain traffic, and on transcontinental sugar and lumber a differential of 1¢ per hundred pounds. This expedient resulted in attracting to the Orient railroad during the years 1923 and 1924 a large volume of traffic which would not

have otherwise been obtained, and to that extent increasing its revenues. It enjoyed this traffic from February 8, 1923, [fol. 556] until June 30, 1925, when the tariffs providing for the differential rates were, by action of the other railroads, cancelled. The result of the cancellation of the differentials was immediately felt by loss of traffic. In addition to this expedient, the Orient by consent of the Interstate Commerce Commission, and of the State Commissions, has applied an arbitrary on traffic moving to non-competitive stations over a portion of the line and from and to non-competitive stations west of San Angelo, Texas, of $10.00 per car on carload traffic and 10¢ per 100 pounds on less than carload traffic.

11. What the people along the line of the Orient railroad need is an improved service. Every dollar which the Orient has been able to obtain has been expended in improving its roadbed, track and equipment, so as to render to these people living along its line and to its patrons everywhere, the best service possible. None of the revenues which have been received have been paid to any stockholder or investor by way of dividends or interest, for all of its revenues are needed and are in fact not sufficient to enable it to render the adequate transportation service to which the people along its line justly are entitled to, and any order of the Commission which might be made which would reduce these revenues in the slightest degree would not only jeopardize continued operation of the railroad, but in fact would work a hardship upon the communities which it alone can serve (Tr. 4804-4805-4806).

When I speak of the Orient Lines, I mean both the Kansas City, Mexico and Orient and the Kansas City, Mexico and Orient of Texas. In 1924 the two lines together showed an operating deficit of $7,798.00. Those figures were fur- [fol. 557] nished to me by the Assistant Auditor who is here and who compiled the figures. I am unable to testify as to what the figure I have given includes.

Mr. Boyd: I can tell you if you want to know.

Mr. Towner: Doesn't it include interest?

Mr. Boyd: It includes interest on the Government loan only. The standard return item would show a net of $142,000.00. I am not giving the exact figures but approximat-

ing it, which does not include the $150,000.00 on the Government loan.

Mr. Towner: On your actual operation then there was no deficit?

Mr. Boyd: Standard return operation, no, sir (Tr. 4706-4707).

The Orient line has done considerably better during the first 11 months of 1925. I don't think so. We had better let Mr. Kelly testify to that, but it is my recollection that we did not do better in the eleven months of 1925 (Tr. 4807).

L. H. MATHIS was thereupon called as a witness and testified as follows:

Direct examination:

I am Assistant General Freight Agent of the Louisiana Railway and Navigation Company, Shreveport, Louisiana. I have been connected with that line six years. The character of testimony that I am going to offer is simply a statistical table. I have familiarized myself with the conditions that I am going to describe in my testimony (Tr. 4808).

L. R. & N. Company (Louisiana Line) operates a low grade line from New Orleans, Louisiana, to Shreveport, [fol. 558] Louisiana, with a branch line from Aloha, Louisiana, to Winnfield, Louisiana, operated mileage being as follows: Main Line, New Orleans to Shreveport 303.25 miles; branch line, Aloha to Winnfield 27.14 miles, making a total of 330.39 miles. The Line has been in operation as a through line between New Orleans and Shreveport since December, 1926. The line makes connections at Shreveport, Alexandria and Winnfield with important western lines and at Baton Rouge and New Orleans with important eastern lines, and with ocean and coastwise steamship service at New Orleans. The line handles a large volume of domestic traffic as well as import, export and coastwise traffic.

The L. R. & N. Company of Texas, which is the Texas line, operates a line from Shreveport, Louisiana, to McKinney, Texas, mileage being 206.08 miles. The line has been in operation for some 20 to 25 years, but prior to April 1st, 1923, was operated as the Shreveport Division of the Missouri Kansas & Texas of Texas, and for this reason we do not have any of the traffic or operating figures for that line prior to that date, the result of operation being included with the figures for the M. K. & T. lines. The line makes connections at Shreveport with important lines leading to the east, and connects with important western lines between Shreveport and McKinney and at McKinney with the Southern Pacific Lines. The line serves a prosperous local community and has a fair volume of through business (Tr. 4808-4809).

A condensed profile of the railroad was thereupon offered in evidence as Exhibit A-109.

(Exhibit A-109 was received in evidence.)

[fol. 559] The first page of Exhibit A-109 is a condensed profile of the Texas Line from Shreveport to McKinney, Texas, and while this profile shows heavier grades than the Louisiana Line, the grade line compares with other lines in that section of the country. Page 2 is a condensed profile of the Louisiana line from New Orleans to Shreveport which shows that it is a low grade line the entire distance. The statement attached, shown on page 3 shows that the maximum tractive power has been increased since 1917 from 35,360 pounds for the highest tractive power of locomotive in use at that time to 51,500 pounds in 1924 and at the present time, having added seven locomotives of this maximum tractive power since that date. Total tractive power has been increased from 999,200 pounds in 1917 to 1,400,400 pounds in 1924, or an increase of 401,200 pounds being 41.16 per cent, all of which has been in freight locomotives. The statement shown on page 4 shows that the revenue tons per train mile for 1917 was 317.32 tons, while in 1924 the revenue tons per train mile averaged 486.79 tons, being an increase of 169.47 tons, or 53.41 per cent. From page 3 it will be noted that the increase in tractive power was 40.16 per cent, while the increase in train load-

ing as shown by revenue tonnage was 53.41 per cent (Tr. 4810).

The statement shown on Page 4 also shows comparison in the consumption of fuel on the basis of pounds of coal (oil reduced to coal) per 1,000 revenue ton miles, which shows in the year 1917 that an average of 445.90 pounds of coal were used per 1,000 revenue ton miles, while during the year 1924 an average of 394.36 pounds of coal were used to 1,000 revenue ton miles, thus showing a reduction of 51.54 pounds of coal used to 1,000 revenue ton miles, or [fol. 560] a reduction in the consumption of fuel of 11.56 per cent as compared with the year 1917.

Now statement shown on page 5 shows comparison of payments account of loss and damage freight claims, which shows that in 1917 the amount was $22,309.30 or 1.19 per cent of the freight revenue for that year, while in the year 1924 the amount was $38,776.01 or 1.06 per cent of the freight revenue for that year which shows a reduction of 0.13 per cent.

The average freight revenues per ton one mile for 1924 increased over 1917 only 7.26 per cent, while with all of the economies and savings we have made the average handling cost per ton one mile of operating expenses, not including taxes, hire of equipment, etc., has increased 26.63 per cent for 1924 as compared to 1917, thus showing that freight rates have been reduced more in proportion than wages and cost of material (Tr. 4811).

L. H. CECIL was thereupon called as a witness and testified as follows:

Direct examination:

My name is L. H. Cecil, my present position is Assistant to Vice President and General Manager of the Texas Lines of the Southern Pacific. I have occupied that position since February 1st, 1919, seven years. Six years prior to February 1st, I was employed as Assistant Superintendent on the Louisiana Lines and Superintendent of the Austin Division of the Texas Lines. For five years prior to March

1st, 1913, I was Chief Clerk to General Superintendent of the Southern Pacific Lines of Louisiana (Tr. 4812).

I am familiar with the Southern Pacific Lines in Texas [fol. 561] and Louisiana as to their physical characteristics and operating conditions in general. As of December 31, 1925, the total miles of road operated by the Southern Pacific Lines, in Texas, was 3,711 miles; in Louisiana, 736 miles; in both States a total of 4,447 miles. In the remarks which follow, this mileage is divided into three geographical groups: Group 1: 889 miles of road in Southern Louisiana and Southeast Texas; indicated by solid red line on Exhibit A-110. Group 2: 2,901 miles of road in Texas and Northern Louisiana, comprising all of the mileage east of San Antonio not included in Group 1; indicated by solid green line on said exhibit. Group 3: 657 miles of road comprising all mileage west of San Antonio; indicated by solid yellow line on said exhibit (Tr. 4813).

The exhibit referred to by the witness was thereupon offered in evidence as Exhibit A-110 and two similar exhibits were offered in evidence as Exhibits A-111 and A-112 respectively.

(Exhibits A-110, A-111, and A-112 were received in evidence.)

[fol. 562] The main line in Texas east of Houston and all mileage in Southern Louisiana (comprising the total of 889 road miles in Group 1- lies close to the Gulf Coast, traversing a flat, low, and in considerable part marshy and swampy country, crossing the drainage baisins of the Mississippi River, Bayou des Allemands, Bayou La Fourche, Boeuf Bayou, Atchafalaya River, Bayou Vermilion, Mermentau River, Calcasieu River, Sabine River, Neches River, Trinity River and San Jacinto River, close to their outlets into the Gulf. The Mississippi River is crossed by ferries, the operation of which is slow and expensive, at New Orleans, Avondale (which is located twelve miles west of New Orleans) and Baton Rouge. Other drainage baisins mentioned, as well as numerous smaller streams and long stretches of cypress swamp and marsh land, are crossed with bridging and long stretches of high embankment.

Owing to the very low bearing strength of this alluvial land and continuous water saturation, serious trouble has been experienced since the original construction on account of embankments sinking and sliding. This situation has grown more and more serious under heavier locomotive and equipment loading of late years. Very large expenditures have been made repairing and restoring embankments so affected. To secure fairly stable roadbed a base width of embankment from two to three times the normal relation to height must be provided and maintained. Under such conditions extraordinarily large quantities of ballast and embankment materials and heavy track and roadway labor forces are required to maintain trackage in condition to safely and expeditiously handle the traffic. Along this Gulf Coast territory all metal parts (such as rails,) track [fol. 563] fastenings, steel bridges and tanks, sheet iron structures, wire lines, etc.) are subject to rapid deterioration from corrosion which is aggravated by the salty air. Efforts have been made, and are being continued, to overcome or alleviate this condition by the use of rest resistive and protected metals, special paints and surface coverings, and by application of oil coating on track rails and metal fastenings. The relatively short serviceable life of metal parts and the special materials and the large labor forces, used to combat the destructiveness of rust and corrosion, are maintenance items of extraordinary character and large cost peculiar to this territory (Tr. 4814-4815).

As stated before, the lines in Louisiana and the Texas main line east of Houston in Group 1 are laid across the drainage basins of many very large streams, close to their outlets into the Gulf, and to a more or less serious extent are affected by all minor and major floods which have origin in any part of that great area, covering all or parts of a dozen or more States whose drainage reaches an outlet into the Gulf of Mexico between New Orleans and Houston, a distance of 362 miles by the Southern Pacific Lines. The rivers and bayous listed in the foregoing enumeration are all crossed by the principal main line and again in most cases by lines of secondary importance. During the flood of 1912 the waters of the Mississippi River broke through into the drainage basis of the Atchafalaya, resulting in the inundation of several stretches of track, miles in length, on

the main line between Morgan City and New Orleans, a distance of 79 miles. Traffic via this route was entirely suspended from June 10th, 1912, to July 7, 1912. The traffic [fol. 564] on that line was also considerably restricted from May 27th, 1912, to July 21, 1912; though it was not completely out of service except from June 10, 1912, to July 7, 1912. The same thing occurred on the branch line from Lafayette to Baton Rouge, which is 57 miles in length and which is a very valuable line to us because it shortens the distance to and from points west of Lafayette and north of Baton Rouge and Hammond, about 175 miles, both of the latter named being junction points with the Illinois Central. Service on the Baton Rouge line, on account of this overflow was completely suspended about 30 days in the same year. The movement of traffic was very materially restricted from May 3, 1912, to December 2, 1912. It required years of extraordinary repair work to fully correct the damage done. The Atchafalaya basin has always served as an overflow channel for the Mississippi. Every major flood stage of the Mississippi results in the inundation of the branch line to Baton Rouge through the Atchafalaya basin with suspension of traffic until water recedes and track repairs are made, the most serious trouble since 1912 occurring in 1922 when the line was entirely out of service for a period of sixteen days, June 14th to July 1st. Extremely heavy expenditures will be necessary for levees, track raising, and bridge reconstruction to overcome this condition (Tr. 4815-4816-4817).

Due to proximity of tide water and flat contour of country all these streams in Southern Texas east of Houston (as well as in Southern Texas west of Houston which will be discussed later) and in Louisiana, have a flat grade line and sluggish current except under flood conditions. Hence their channels have a tendency to meander, resulting in the necessity for large and expansive bank revetment, current retards, and mattress protection projects to keep the channel locations fixed at the established bridge crossings. [fol. 565] These streams flow through timbered districts where lumbering is an active industry. At flood stages great masses of drift composed of tree tops, logs, and smaller drift wood, accumulate in huge rafts. To prevent choking of these drift rafts at bridge crossings heavy forces are then maintained, working in three shifts to keep drift

moving. On occasions dynamite is required—also steam cranes and locomotives are used as drift pullers.

A maintenance difficulty of extraordinary character, peculiar to this territory and important in its damaging effect on maintenance of drainage and clear openings through bridge structures, is the luxuriant growth of water hyacinth or water lilies. Great drifts of these floating water plants choke drainage ways and accumulate in such huge quantities at bridge openings as to result in practically damming the water-ways, necessitating use of large labor forces and special steam crane equipment to clear the openings. More or less work of this nature is required every season (Tr. 4817-4818).

The climate and rainfall in Southeastern Texas and Southern Louisiana foster a year-round heavy and rapid growth of weeds and grasses. Aside from the great amount of time spent by section forces in cleaning weeds and brush from track and right-of-way, applications of poisonous chemical have been made for the past six years, and will be continued on a heavier scale in the future to more effectively combat the destructive invasion of rank weed growths.

On this Louisiana mileage there is an average of 131.5 lineal feet of bridging per mile of road. With the development of the country which will call first for drainage improvements, the required area of water-way openings will no doubt be increased and it is likely that additional bridging will be required.

[fol. 566] All of our mileage in this territory, still referring particularly to Louisiana and Southeastern Texas, is subject to heavy rain fall, at times almost continuous for days at a stretch. It is not uncommon for an entire year to pass with but few of the right-of-way borrow pits and ditches being at any time clear of water. The mean average annual precipitation for Louisiana and Southeastern Texas is 52 inches. This compares with States in Central West as follows: Arkansas 50 inches; Missouri 37 inches; Kansas 31 inches; Nebraska 31 inches; Illinois 33 inches; Iowa 34 inches; South Dakota 17 inches; North Dakota 18 inches; Minnesota 29 inches; Michigan 32 inches.

In this territory the combination of moisture and warm climate brings about the most favorable conditions for destructive action of timber decay fungi. Such untreated timbers as are used for structural work give relatively short

life and require frequent paint applications to prevent deterioration (Tr. 4818-4819).

Referring now to the 2,901 miles of road in Group 2 comprising all of the mileage in Texas lying east of San Antonio, except that in Group 1—that is the green on Exhibit 110. ' Attention is invited to certain unfavorable physical conditions existing, some being peculiar to the territory served, and all important in their adverse effect on maintenance work and operating results. A large part of this mileage was constructed prior to 1875 and most of the balance prior to 1890. Modern railway location and construction practices, with respect to elimination of sharp curvature and heavy grades, were not observed in this early construction. The funds have not been found available to accomplish much in the way of re-alignment and grade reduction and the line remains today, in these respects, substan- [fol. 567] tially as originally built. Taking nineteen locomotive districts, comprising a total of 2,131 road miles, out of the total of 2,901 road miles, as typically representative (unimportant branch lines not being included in these nineteen districts), average conditions with respect to alignment and grade conditions are found to be as follows: (a) Degree of curvature per mile 24 degrees one minute; (b) miles of line per complete circle turned: 14.99; (c) sum of all ascents in feet—per mile of line, eastward: 12.5'. By eastward movement I mean, for example, from Denison towards Houston and from Houston to San Antonio. I mean that Houston to San Antonio would be westward, but from Denison to Houston would be what I call eastward. Sum of all ascents in feet—per mile of line, westward: 14.3'. (e) Miles of ascending grade over 1 per cent—per 100 miles of line—eastward: 7.32. (f) Miles of ascending grade over 1 per cent—per 100 miles of line—westward: 7.98. Of these nineteen districts the maximum or ruling gradients with respect to tonnage rating are as follows: 2.25 per cent to 2.50 per cent, one district eastward; none westward. 1.50 per cent to 2.15 per cent, five districts eastward; and four westward. 1.25 per cent to 1.49 per cent, nine districts eastward; and nine districts westward. 1.00 per cent to 1.24 per cent, three districts eastward; and six districts westward. 0.75 per cent to 1.00 per cent, one district eastward; and none westward. From this it will be seen that except for one direction on one district the ruling tonnage grade is

in all cases in excess of one per cent. On thirteen of the nineteen districts ruling tonnage grade in both directions is 1.25 per cent or more. On all these districts there are two or more grades at widely separated points of the ruling rate or so closely approximating it as to make helper engine [fol. 568] assistance impracticable and uneconomical as a means of increasing the locomotive tonnage ratings (Tr. 4820-4821).

The information I am giving is shown in more detail in Exhibit A-111 and I am summarizing that in my testimony. It is abbreviated in Exhibit A-112. The section of Texas traversed by this mileage is subject to a mean average annual precipitation approximating 50 inches. As a general thing about 25 inches falls in some four consecutive monthly periods, frequently following a long period of drought. The effect of these alternate extremes of wet and dry on the roadbed and track structure is exceedingly destructive. Especially is this true on the considerable portion of this mileage having embankments built of a waxy gumbo soil peculiar to Texas. During a dry spell this gumbo shrinks and cracks under the ballast section and along the shoulders. Large quantities of ballast material disappear into these crevices, weakening the ballast support under ties and resulting in rough track, requiring constant attention of track forces to keep track structure in condition for normal speed. During periods of rainfall water accumulates in the gravel filled crevices saturating the gumbo which swells and heaves and frequently large sections slide away from the main body of the embankment under the hydrostatic pressure produced by traffic loading. Likewise during these wet spells track forces are required to give constant attention to track surface and line to maintain safe conditions. The orderly conduct of the usual constructive track maintenance work such as tie renewals, cleaning of ditches and culverts, tightening of bolts, etc., is impossible where track conditions are so affected by the reaction of the subgrade to alternate dry and wet weather. Fully 15 per cent of this mileage is subject to such conditions, re- [fol. 569] quiring from two to five times the normal attention of track labor for surfacing and lining (Tr. 4822-4823).

Most of the drainage in the area traversed by this mileage is carried in the basins of the Neches River, Trinity

River, San Jacinto River, Brazos River and Colorado River. All of these streams have strong meandering inclinations which have necessitated current retard and bank revetment work to hold their channels at the established bridge crossings.

This mileage crosses the Neches River at three points, the Trinity River at three points, the San Jacinto at one point, the Brazos River at four points, and the Colorado River at six points. All of these streams reach flood stages frequently—rarely at intervals greater than one year. Each such occurrence makes necessary the assignment of extra forces for track patrol, sand bag protection, anchoring of track, pulling of drift and other special and extraordinary measures to protect the property and insure safe movement of traffic. Traffic delays and interruptions are often sustained—in the case of principal main line varying from a few hours to as much as fourteen days—this in recent years (Tr. 4823).

Torrential rains of cloudburst proportions occur in the portion of Texas served by this mileage, causing traffic interruptions and delays, as well as serious property damage. Instances of such extraordinary rainfall during periods of 24 hours or less follow: vicinity of Cuerro, Texas, July 23, 1919—11.96 inches; vicinity of Edna, Texas, June 22, 1921—10.00 inches; vicinity of San Antonio, Texas, September 9, 1921—6.83 inches; vicinity of Austin, Texas, September 10, 1921—19.03 inches; more than your average annual pre-[fol. 570] cipitation in either of the Dakotas; vicinity of Ft. Worth, Texas, April 1922—8.81 inches; vicinity of Houston Texas, March 25, 1922—7.36 inches; vicinity of Beaumont, Texas, May 18, 1923—13.54 inches; vicinity of Galveston, Texas, June 12, 1925—10.27 inches. The lines in the Gulf Coast territory are subjected to storms of unusual magnitude. On September 8, 1900, the Gulf Coast of Texas was visited with one of the most destructive storms on record from the standpoint of human life. Galveston was the chief suffered. At the time of the 1900 storm there were three railway trestles and a highway bridge between the mainland and Galveston island. All three of these structures were destroyed and only one (The G. C. & S. F.) structure was restored. This trestle was 10,680 feet in length and was replaced by a causeway (which was com-

pleted in 1912) after nearly three years work at a total cost of $2,025,000. This structure consisted of twenty-eight 70 foot concrete arches and a 109 foot Scherzer rolling lift span, making the length of the concrete and steel structure 2,450 feet 26 inches, in addition to which there were two approach embankments having total length of 8,220 feet. The structure was given a width sufficient to accom-odate three railway tracks and a highway 19 feet wide. When this structure was designed it was felt it would withstand any storm which might be expected, but on August 16th-17th, 1915, the Texas Gulf Coast was visited by a storm of even greater violence than the one in 1900. The Galveston seawall, which was constructed following the 1900 catastrophe, fully measured up to expectations and the city was saved from disaster. The Causeway, which had only been in service about three years, was not so fortunate. It was damaged to such an extent that it had to be rebuilt. Construction on the new causeway was started in September, 1917, and was completed in 1921, at a cost of approximately [fol. 571] $2,727,000.00. 45 per cent of the cost of this structure was borne by the railroads entering Galveston (Tr. 4824-4825).

The Gulf Coast has been visited by several severe storms since 1915. None have been of sufficient violence to cause destruction of human life or to do serious harm to the causeway, but they have resulted in a considerable amount of railroad property damage, as well as traffic delays. In September, 1919, another terrific storm swept the Texas Gulf Coast and in this case Corpus Christi was the chief sufferer. The storm caused the loss of quite a number of lives and traffic was tied up or more or less interrupted for several weeks on the line of the S. A. & A. P., which is now a part of the Southern Pacific System, between Corpus Christi and Gregory and between Gregory and Rockport (Tr. 4825).

I will now discuss the physical conditions affecting maintenance and operation of the 657 miles of road in Group 3, comprising the mileage in Texas west of San Antonio. That is shown in yellow on Exhibit A-110. This is a continuous stretch of main line except for one branch from Spofford to Eagle Pass, 34 miles in length. Construction of the main line was completed and the line placed in opera-

tion in 1883. The section of south and west Texas traversed by this mileage is generally rugged and mountainous. You will note you can follow me on that in the condensed profile, Exhibit A-111, beginning on sheet 3. Beginning at San Antonio, with elevation of 655 feet above sea level, the line climbs to 964 feet above sea level at Del Rio, the west end of the first district; then to elevation of 2,271 feet at Sanderson, the end of the second district; then to 4,432 feet at Valentine, the end of the third district; then drops to 3,773 feet at El Paso, the west end of the fourth district and of the line. At Paisano, Texas, on the district between Sanderson and Valentine the line reaches eleva- [fol. 572] tion of 5,078 feet, which is the highest elevation attained on the Sunset Route between New Orleans and San Francisco—the Continental Divide (Tr. 4826).

Annual rainfall in this territory is comparatively light but very heavy downpours generally of a local cloudburst character are not unusual. Due to rocky formations and rugged contours, the run-off is heavy and the velocities great. Water courses are generally dry but on occasions run bank full with great destructive force. These water courses are usually deep canyons or gorges eroded in the solid rock. Largest of these is the Pecos River Canon which is crossed by a viaduct 1,516 feet in length, with the rail 321 feet above the bottom of the canyon. This structure consists of 15 35 feet deck plate girder spans, 1 45 foot deck plate girder span, 8 65 foot lattice deck girder spans, 1 80 foot deck suspension truss, 2 173 foot deck cantilever arms, weight 5,497,063 pounds. It is the highest railroad viaduct in North America and according to the best authority we can secure, it is the seventh highest railroad viaduct in the world. It was constructed in 1892, re-enforced to take care of increased train loading in 1910.

The location and construction of the mileage in Group 3 was rushed under great pressure to get the line in service as soon as possible. A first consideration in the location work was to avoid heavy grading, hence the alignment follows the contours of the land with but little regard for curvature. Little or no effort was made to avoid gradients up to one per cent. Canyons, ordinarily dry but known to be bank full with swift currents at times were crossed and recrossed with trestling to avoid delay and cost of making

heavy rock excavations, for the handling of which work [fol. 573] proper equipment, as we now consider it, was not then available (Tr. 4827).

Many very costly realignments have been made since the original construction, having as main objectives reduction of curvature and distance and elimination of high water trouble. Several minor realignments are now under way and one major project has just recently been started. This contemplates relocation between Langtry and Osman, Texas, 9.36 miles of new line replacing 13.84 miles old line to be abandoned, resulting in reduction of 4.48 miles in distance, 46 feet in rise and fall, 765 degrees of curvature, equal to 2.12 complete circles, and 4,525 feet of bridging. The present line to be abandoned is located in the Meyers Canyon drainage basin—crossing and recrossing the water course ten times on timber trestling. Discharge of cloudburst waters through this canyon has wiped out all of these bridges and completely tied up traffic awaiting their reconstruction three different times, the last time in 1919 when traffic was suspended for twelve days.

Right in that particular you will note from the map that when the Southern Pacific Lines are prevented, by washouts or other troubles, from operating, there are no opportunities of detour. The only opportunity we have is to detour around through Ft. Worth, Dallas and Ft. Worth and over the Texas & Pacific. There are no lines available west of San Antonio or De Rio to afford a detour (Tr. 4828).

On other occasions in recent years flood waters in this and other canyons have caused serious damage with consequent traffic delays and heavy cost for track and bridge repairs. Some benefit in reduction of rise and fall is ob- [fol. 574] tained in these realignment projects but no substantial benefit from standpoint of ruling gradient with respect to tonnage rating—because of the number and widespread location of gradients of the ruling rate or closely approximating it. For the same reason helper engine service as a means of increasing train loading is not practicable and to materially improve existing tonnage ratings by grade reduction on any of these locomotive districts would be prohibitive. On the four main line districts the maximum or ruling gradients with respect to tonnage ratings

are as follows: (You will be able to follow me on Exhibit A-112.) San Antonio to De Rio eastward 1.49, westward 1.33; Del Rio to Sanderson eastward 1.26, westward 1.38; sanderson to Valentine eastward 1.11, westward 1.17; Valentine to El Paso eastward 1.19, westward 1.05.

The production of a water supply for locomotives, adequate in quantity and quality, is a very serious difficulty in this territory. Most of the supply comes from deep wells of small capacity and difficult to keep in the continuous operation necessary to maintain the supply. Tank car supply is frequently resorted to in emergencies (Tr. 4829).

This entire section of the country (by which I mean the whole territory included in the three groups already described, everything in Exhibit A-110) is also subject to heavy expenditures on account of grade separations, grade crossing protection, etc., due to increased number of automobiles in service. During the past four years these lines have installed 28 grade separations, involving a heavy capital expenditure. On account of public highway improvements, no doubt, these separations within the next few [fol. 575] years will be greatly increased. At Beaumont, Texas, plans have been perfected to separate grades through the entire business part of the city traversed by these lines, which will involve an estimated expenditure of $1,450,000.00, the proportion to be borne by the Southern Pacific Lines being approximately $1,155,000.00. Contract has already been executed by the Railroad and the City covering this improvement. While the city of Beaumont has indicated its unwillingness to go ahead with the work covered by this contract, it seems to be its purpose to endeavor to compel the Southern Pacific Lines to carry out this work at their own sole expense. In the city of Dallas we have just completed a Belt line in order to divert the movement of rail traffic around the city instead of through it, at a cost of approximately $2,000,000.00. The city of Dallas for some time has been insistent upon this line change in order to avoid traffic congestion on busy streets. In the city of El Paso, Texas, a grade separation project through the entire business part of the city is being agitated. Plans have not yet been perfected but the im-

provements will mean an expenditure of many thousands of dollars by the Southern Pacific Lines.

The extraordinary conditions applicable to these lines, as previously enumerated, necessitate, as before stated, an unusually heavy annual expenditure for roadway maintenance. It would make the record too voluminous to go into detail with respect to the burdensome and unusual maintenance expense thrust upon us by conditions which I have undertaken to describe in a general way. However, in order that a reasonable idea may be formed as to extent these conditions affect our maintenance costs, I will state that on the Southern Pacific Lines in Texas and Louisiana, [fol. 576] during 1922, 1923 and 1924, the ratio of maintenance of way expense to total railway operating expenses averaged 23.53 per cent, and the ratio of maintenance of way expenses to total railway operating revenues averaged 19.39 per cent, whereas the ratios of maintenance expenses to total operating expenses, and maintenance of way expenses to total operating revenues on all of the Western Trunk Lines combined, during the same period, averaged 17.1 per cent and 13.61 per cent respectively (Tr. 4830-4831).

The 17.1 per cent for the Western Trunk Lines should be compared with 23.53 per cent for the Southern Pacific Lines. By Western Trunk Lines I mean the Western Trunk Lines involved in this controversy and listed. These figures indicate quite clearly that our difficulties with respect to roadway maintenance are much more severe than on the Western Trunk Lines involved in this controversy. There are many transportation difficulties with which we are confronted that tend to make operating expenses on these lines unusually burdensome. One of these difficulties lies in the large amount of branch lines operated. Of the total mileage operated by the Southern Pacific Lines in Texas and Louisiana 58.83 per cent represents branch line mileage. Of course it goes without saying that the cost of operating branch lines is much more expensive than main lines. That per centage 57.83 refers to the whole mileage of the branch lines (Tr. 4831-4832).

Unfortunately on a number of these branch lines we are compelled to maintain more service than the business war-

rants, which is a continuous and burdensome drain on our income. Again, the flood conditions prevailing throughout the country contiguous to these lines, as previously explained, are not only very damaging from a viewpoint of track upkeep, but the consequent train detention, in con- [fol. 577] junction with the temporary and sometimes permanent loss of traffic routings, very adversely affects our net operating results. The grades on certain parts of the Texas Lines, which also have been touched upon, largely contribute to our operating difficulties. It will be observed from profile map, Exhibit A-111, that at Glidden, which is located at Mile Post 88 on the New Orleans-El Paso line, (you will find that on Sheet 3) we strike the hill country. From Glidden west to El Paso operations are expensive on account of grade conditions and consequent limited train loading. The grade conditions applicable to this section also apply to the Houston-Shreveport line and Austin-Llano line, and to a lesser degree to certain parts of the Central lines between Hempstead and Denison, and Bremond and Waco.

The adverse conditions referred to, coupled with light traffic density as compared with the Western Trunk Lines, make it necessary for us to exercise unusual diligence in order to perform service at the least possible cost. In order to increase our train loading we have, insofar as available funds will permit, increased from time to time the capacity of our locomotives.

Since 1912 the average tractive effort of switch engines has been increased from 22,244 pounds to 25,740 pounds on December 31, 1925, an average increase of 15.7 per cent. In 1912 the average tractive effort of passenger locomotives was 18,573 pounds while on December 31, 1925, the average was 25,001 pounds, an increase of 34.6 per cent. The average tractive effort of freight locomotives has been increased from 28,329 pounds in 1912 to 37,181 pounds in 1925, an increase of 31.2 per cent (Tr. 4832-4833).

We have also actively followed up work of equipping locomotives with superheaters. With only fifteen freight [fol. 578] locomotives equipped with superheaters in 1912, on December 31, 1925, we had 261 locomotives so equipped, or 70.35 per cent of number owned. We now have eighty-

five or 63 per cent of our passenger locomotives equipped with superheaters. Since the advent of feed water heaters, locomotives are being equipped with this device as rapidly as possible. At the close of 1925 we had 28 passenger and 29 freight engines so equipped. This device is designed to promote fuel economy by use of exhaust steam from the locomotive to heat the boiler feed water before it is placed in the boiler.

With the gradually increasing tractive effort of our locomotives, in connection with such grade reductions as our finances have permitted us to make, we have brought about a substantial increase in our average train loading. Our freight train loading averaged in 1906, 805 gross tons per train; 1912, 948 gross tons per train; 1916, 1,050 gross tons per train; 1918, 1,158 gross tons per train; 1921, 1,236 gross tons per train; 1922, 1,268 gross tons per train; 1923, 1,344 gross tons per train; 1924, 1,391 gross tons per train; 1925, 1,382 gross tons per train. In 1925 our train loading, as compared with 1912, shows an increase of 45.8 per cent, which is considerably in excess of the increased tractive effort per locomotive in 1925 as compared with 1912. The slight decrease in 1925 train loading, as compared with 1924, was occasioned by absorption of the S. A. & A. P. lines in 1925. Locomotives in service on that line are of small tractive effort.

We have in the past few years brought about a gradual increase in average speed of freight trains. In 1920 the speed of freight trains averaged 11.3 miles per hour, in 1921 11.9 miles per hour, in 1922 12 miles per hour, in 1923 12.2 miles per hour, 1924 12.6 miles per hour, and for the twelve months ended December 31, 1925, 13.3 miles per hour (Tr. 4834-4835).

[fol. 579] Our gross tons per train hour has also shown a gradual increase. In 1920 gross tons per train hour on the Southern Pacific Lines averaged 14.039; for the twelve months period ended December 31, 1925, the average was 17,423—an increase of 24 per cent.

On emerging from federal control these lines found a very bad condition with respect to car supply and interchange. Notwithstanding the fact that the equipment pro-

gram for previous years had provided a number of cars sufficient to take care of the average traffic, it was found that car balances were running heavily against us and an extensive campaign for improving the movement and reducing payments was inaugurated. At the close of 1920 we had a debit per diem balance amounting to $1,482,601.00; the debit balance at the close of 1921 was $1,094,599.00; in 1922 the debit balance was reduced to $111,164.00. In 1924 our foreign car mileage averaged 40.5 miles per day and our per diem balance showed an earning of $5,335.00 during the year instead of a heavy debit balance as in previous years. While a portion of this per diem saving may be accounted for by addition to our equipment, the fact that it is largely due to more efficient handling is demonstrated by the car mileage figures, which show 62.6 per cent improvement in the mileage of foreign cars during 1924 as compared with 1920 (Tr. 4835-4836).

Special efforts have also been made to bring about an improvement in car loading and a consequent reduction in the dead weight for which no compensation is received. This, however, is an item which is largely beyond the control of the carriers. The improved transportation service in recent years has encouraged consignees to order in smaller lots which has largely nullified our efforts to provide for heavier loads through the construction of cars of greater capacity. And I might say that the expeditious [fol. 580] transportation has also to a large extent nullified the necessity of large wholesale concerns carrying heavy stocks which they formerly carried. It is a matter of considerable importance to them and means a considerable expense to the carrier. Our car loading for 1924 as compared with 1920 shows a reduction of 0.3 tons per car. This is probably not a fair comparison as the 1920 performance received the benefit of the intensive program which was made effective during the war and which continued for a couple of years thereafter. In 1921 our average load had dropped to 21.4 tons per car. There has been a slight improvement each year since, the figures being as follows: 1922, 22.2 tons; 1923, 23.1 tons; 1924, 23.8 tons (Tr. 4836-4837).

Another item of material importance in economical opertaions is the curtailment of loss and damage claims.

In 1920 these lines paid out in loss and damage claims $985,598.00 or 2.06 per cent of our gross freight revenues. In order to curtail this glaring loss a department of Claim Prevention was organized and a systematic campaign for the reduction of claims inaugurated, with the result that during the year 1924 our claim payments amounted to .74 per cent of gross freight earnings; and during the year 1925 our claim payments averaged only .64 per cent of gross freight revenues.

In January, 1921, the Southern Pacific Lines revised their method of handling fuel economy, creating a Fuel Conservation Bureau with a Fuel Supervisor in charge, reporting direct to the Vice Presidents and General Managers. The Fuel Supervisor has general direction of and is responsible for all fuel conservation activities. His duties require him to attend all division fuel conservation [fol. 581] meetings, check fuel consumption, fuel issues and fuel measurements, and devote a substantial part of his time to creating and maintaining interest in this subject, with a spirit of rivalry, among the various employees. The Fuel Conservation Bureau prepares statistics, analyses fuel daat and directs the many ways that good practice and experience has demonstrated is conducive to fuel conservation. On each division is a fuel committee, with the Superintendent as Chairman, which meets bi-monthly. The committee is composed of the Superintendent's staff, an engineer and a fireman each in freight, passenger and yard service, one conductor and one brakeman. With exception of the Superintendent and his staff, whose memberships are continuous, members serve for six months. Certain distinctions and premiums are given for the best performances, both individually and divisionally, which has a stimulating effect. This includes an annual trip to the International Railroad Fuel Association Convention to the engineer and fireman of each division making the best fuel record during the preceding year. Results accomplished during 1924, compared with years preceding the reorganization of the Fuel Bureau are satisfactory.

Safety Work. The safety work on Southern Pacific Lines was organized in 1912, when safety committees, representing all classes of employees, were selected and regular sessions held in shops and terminals and on the operating divi-

sions. On the inception of Federal control this important detail of operation was placed under a Superintendent of Safety, who, since that time, has personally supervised the work. The results have been very gratifying. In 1912, in train service, there was one reportable casualty for each 20,595 locomotive miles run. In industrial occupations in 1912 there was one reportable casualty for each 25.546 hours worked. In 1924, there was one reportable casualty in train service for each 61,371 locomotive miles run and [fol. 582] one reportable casualty in industrial occupations for each 83,571 man hours worked. For the year 1924, as compared with 1923, there was a reduction of 8 per cent in train service casualties, and a reduction of 35.5 per cent in the number of industrial casualties. The performance of our five main shops for 1924 was remarkable, in that there was a reduction of 275 or 67 per cent in the reportable injuries for the year. The shops at El Paso, employing approximately 1000 men, operated the entire year with but one reportable casualty, working 1,645,172 man hours. Further, this one shop has a record of but two reportable injuries in a period of twenty-five months. In 1912, there were 711 employe casualties in train service; in 1924, with the vastly increased operation, there were but 305 employe casualties; in 1912, there were 1624 reportable casualties to industrial employes; in 1924 therewere but 567. Total employes killed, 1920, 21; total employes killed, 1924, 14; total employes injured, 1920, 2155; total employes injured 1924, 868; total persons killed, 1920, 53; total persons killed, 1924, 74; total persons injured, 1920, 2292; total persons injured, 1924, 936. Included in these latter figures are trespassers and persons killed on grade crossings for whom we cannot accept responsibility. Notwithstanding these accidents are generally largely or solely due to the negligence of the parties sustaining injury, the courts of Texas almost invariably hold the railroad companies responsible for the results of the accident. Formerly the courts required parties going on railroad crossings to exercise some degree of care to avoid accidents, but in recent years there has been a complete change in the attitude of the Supreme Court with respect to such matters, notwithstanding there has been no legislation requiring or justifying such change (Tr. 4837-4838-4839-4840).

While the speeding up of our freight trains, heavier train [fol. 583] loading, savings in fuel consumption, reduction in loss and damage claims and casualty expenses generally, have brought about a very substantial decrease in our transportation expenses, our net income results, by reason of the unusual and uncontrollable conditions with which we have to contend as previously recited, have not been satisfactory, because we have not been able to earn the investment return permitted by the Transportation Act. In 1920 our net operating income shows a deficit of over $600,000.00; in 1921 the per cent of return on investment was 1.07. During the year ended December 31, 1922, per cent on return was 2.37; in 1923 2.55 per cent; in 1924, 3.96 per cent; in 1925, 3.62 per cent.

The prospects for the future are not especially encouraging because the operating difficulties which have been set forth are in a large degree fundamental and cannot be corrected. Hence we feel that if any adjustments of divisions are made, they should be in the direction of increasing rather than diminishing our earnings (Tr. 4840).

Exhibits A-110, A-111 and A-112 were prepared under my instruction and supervision and are correct according to my best knowledge and belief. Referring to that part of the line west of San Antonio, the yellow part of the line shown on Exhibit A-110, the line from San Antonio to Del Rio is to a large extent rather rough and rugged. While there is some dry farming, in the main it is a grazing country. The line from Del Rio to El Paso is a rocky, rough, semi-arid district and with the exception of a few spots, it is not susceptible to cultivation. On account of the ruggedness of the country I feel quite sure in the statement that irrigation projects are out of the question. Therefore the opportunities of that line ever developing into a productive railroad are very remote (Tr. 4841).

[fol. 584] Cross-examination:

The main line from Houston to San Antonio is as follows: Referring to Exhibit A-110 you see a curved line to the left and headed southward, and it crosses the green line, then westward to Rosenburg, Eagle Lake, where it again crosses the green line, through Columbus, Flatonia and into San Antonio. That is our primary main line. I will say,

however, that the green line which lies north of the S. A. & A. P. up to Eagle Lake, then south of the main line from Eagle Pass to El Campo and to Cuero then to San Antonio is also classed as a main line. As a matter of fact it is a branch line. The greater part of that was the main line of the S. A. & A. P. Our preferred route for traffic between San Antonio and Houston is the line that I first described. The main line from Houston to New Orleans is plain. It might be a little confusing in between Lafayette and New Iberia or rather between Midland and New Iberia. The main line is the one extending through Lafayette, or the north line. From Lafayette to Baton Rouge is branch line and also the line to Alexandria is a branch line. From Houston north to Shreveport is branch line. The green line from Houston through to Denison, that is, Houston, Hempstead, Navasota, and Mexia; now both of those lines are main lines there, by way of Hearne and by way of Jewett. Both main lines, up through Ennis, Garrett, Dallas and Denison, main lines. Now in regard to the line from Navasota to Mexia by way of Jewett, that is classed as a main line although there is very little service on it. In fact it is a branch line from the standpoint of service. We operate a train a day over there. The preferred line is through Hearne, Calvert and Bremond. It is a better grade line, but unfortunately the business has never developed for us to use that the full year around as a freight line (Tr. 4841-4842-4843).

[fol. 585] All of the operating expenses to which I have referred with respect to washing out the railroad and so forth, are costs of maintenance reflected in our reports of operating expenses made to the Commission. There are no figures that I have stated in so far as operating costs are concerned that cannot be obtained from the reports rendered to the Interstate Commerce Commission (Tr. 4844).

Exhibit A-111 is drawn to scale and grade percentages can be obtained (Tr. 4844).

I requested our Engineering Department to work up the precipitation data over a period that would be generally representative and I cannot specifically say whether the figures for the northern states are merely rainfall figures or total precipitation figures. I think the figures were secured from Government climatological reports (Tr. 4845).

Here Attorney Muckley agreed to furnish information showing whether the figures were merely rainfall figures or included total precipitation.

The Witness (continuing): I said that we had our operating difficulties, many of them were to a large extent fundamental and remain fixed. Of course we don't enjoy the traffic density in Texas and Louisiana that is enjoyed in Illinois and Iowa and according to my estimation we will probably none of us here ever see Texas developing like Iowa and Illinois and other states in that vicinity are now developing. There has been a development in Texas, there has been a development all over the country, there has been a development in Texas just the same as there has been development in Chicago, development in Birmingham, New York, St. Louis and other localities and my recollection is that the development features in the localities that I have mentioned in the past few years has been even [fol. 586] greater than in Texas and Louisiana. That is my belief. The development of Texas has been rather startling in certain localities, in the oil field districts mostly, around Wichita Falls, Texas, and on the Southern Pacific Line at Mexia, Texas, Wortham, Texas, and along the Gulf Coast in the vicinity of Orange. In connection with that development I want to call attention to the fact that the oil field development is very rapid but is not lasting. It has not been so on our railroad and I think that is the case of all other railroads. I am hopeful that these oil wells will flow on forever, but I am quite sure they won't the way they are playing out. Oh, I have a great deal of confidence in my government, the United States. I have a great deal of hope and belief in the prospects for Texas and the entire United States. I think we are forging forward but I am afraid that the middle states, particularly Illinois and Iowa and those states, while we may improve, they are going to continue to improve more rapidly than we are. I am speaking industrially and otherwise (Tr. 4745-4746-4747).

H. D. Earl was thereupon called as a witness and testified as follows:

Direct examination:

I am General Superintendent of the Texas and Pacific Railroad and have had about thirty years transportation experience. My experience qualifies my to testify concerning the physical and operating conditions on the Texas & Pacific (Tr. 4847-4848).

The Texas and Pacific was placed in the hands of a receiver on October 27, 1916 and removed on May 15, 1924. It has just emerged from receivership (Tr. 4848).

The profile of the Texas & Pacific is Exhibit A-113 and the physical characteristics of the Texas & Pacific A-114. The exhibits were prepared by the Engineering Department at my request and as far as I know they are correct (Tr. 4848-4849).

[fol. 587] The profile of the Texas & Pacific Railway was thereupon offered in evidence as Exhibit A-113 and the statement of the physical characteristics of the Texas & Pacific was thereupon offered in evidence as Exhibit A-114.

(The Exhibits A-113 and A-114 were received in evidence.)

[fol. 588] The operative mileage of the Texas & Pacific Railway is 1,466 main line and 487 branch line, total 1,953 miles. The main line over which the heaviest traffic is handled extends from Gouldsboro, Louisiana, to El Paso, Texas, a distance of 858 miles and from Texarkana, Arkansas-Texas, to Longview Junction, Texas, a distance of 90 miles. The gradient over which this heaviest traffic moves, begins at Gouldsboro, Louisiana, approximately five tenths of a foot above sea level and rises to the highest point about 4,600 feet above sea level. Because of the varying grades locomotives having a tractive effort of from 28,000 to 95,000 pounds are used to handle the traffic, the lighter ones being used in the lower grade districts. Our situation regarding characteristics of the line and maintenance requirements are similar to those of the Southern Pacific Lines in Louisiana. A large portion of our main line and branch lines in Louisiana serve dense sugar cane territory. This perishable crop consists of from 6,500 to 19,000 cars per year, moves from loading points to the refineries during a period of from two and a half to three months, October to

December inclusive, and requires a special service to handle. We have heretofore provided as many as 26 special crews and locomotives daily, a portion of the time, to handle this commodity and because of the low freight rate the expense of handling exceeds the revenue received. During the seasons 1919 to 1924 inclusive these losses were $173,041.73. Flood conditions in this territory have seriously affected our operations and are briefly referred to as follows: From April to July 1912 the expense of repairing the property caused by flood conditions, near Torras, Melville, Marksville and Edgard, Louisiana, was $555,220.00. As late as April and May, 1922, flood conditions on the Melville [fol. 589] Branch near Hamburg, necessitated protection of our main line near Melville at a cost of $45,917.00 (Tr. 4849-4850).

Dense fogs in the lower Louisiana territory have and are now seriously affecting the movement of both passenger and freight trains, it being necessary at times to hold freight trains at terminals for hours and to delay both passenger and freight trains on the road. The same conditions regarding flood situation have affected our Texas lines as follows: in August, 1920, near Warfield, Texas, a point 50 miles west of Big Springs, Texas, the expense of repairing property damage was $16,140.00 and train service seriously interrupted for several days. In April 1922 flood conditions between Abilene and Pecos, Texas, cost approximately $75,000.00. In April and May, 1924, on two different occasions, two weeks apart, unprecedented rainfalls damaged the property near Fordney, Texas, and between Dallas and Ft. Worth to the extent that it was necessary to spend $90,000.00 for immediate repairs and later, the track in these territories was raised and embankments widened at an expense of approximately $70,000.00. In July and August, 1925, near Kent, Texas, and east of Toyah, Texas, flood damage caused an expenditure of $15,000.00 and in November, 1925, between Marshall, Texas, and Longview, Texas, the flood damage approximated $12,000.00

In every instance the movement of passenger and freight trains have been seriously interrupted and has caused heavy extra expense detouring Texas & Pacific trains via other routes. We are continually attempting to overcome these

obstacles by expenditure of vast sums for raising grades, widening banks, protection levees and so forth. A resume of the results of operations for a period of nine years ended December 31, 1924, is as follows:

Conditions existing during the year 1916 predicted an [fol. 590] inevitable increase in price of practically everything entering into the cost of producing transportation, more vigorous methods of efficient and economical operation were adopted and subsequently improved upon to meet the situation then and as later existed directed to improved service and ability to meet requirements of the new traveling and shipping public, and the gradual increase in volume of freight traffic for movement which is evidenced by the summary of results obtained as indicated as follows: with light power and small trains being operated the number of trains required to handle the traffic offered exceeded the economical capacity of single track making it necessary to improve the roadway and tracks to accom-odate improved and heavier power. During the years 1916 to 1925 new 85 pound rail and ballast was required as follows: a total of 856 miles of ballast at an expense of $2,790,434.00, and 707 miles of new 85 pound rail applied at a cost of $3,150,-643.00. The lighter 75 pound rail released was used and relaid to improve the track where still lighter rail existed, aggregating 154.09 miles, at cost of $382,491.94. Bank widening and grade revision work has been prosecuted at cost of $322,713.65 (Tr. 4850-4851-4852).

With improved roadway conditions, larger and more modern power was purchased, increasing the loading of freight trains, thus reducing the number required. With the acquisition of larger power the lighter engines were set aside and retired with the total and average tractive power increasing much in excess of the units of power maintained. The units of power increasing only slightly more than 4 per cent, while total tractive power increased 65 per cent and average tractive power per locomotive increased 37 per cent 1916 compared with 1924, as indicated: [fol. 591] In 1916 there were 341 locomotives owned with a total tractive power of 8,721,757 pounds, or an average tractive power of 25,577 pounds per locomotive. In 1921 there were 377 engines owned with a total tractive power of 12,146,565 pounds or an average of 32,219 pounds per

locomotive. In 1924 there were 355 engines owned with a total tractive power of 12,433,201 pounds, or an average of 35,023 pounds per engine. During this period 49 freight locomotives were purchased at total cost of $2,572,120.00 and 22 switching locomotives at cost of $747,086.00, or total of 71 locomotives aggregating cost of $3,319,206.00. The average gross tons handled per freight train mile increased from 877 during 1916 to 1211 during 1921 and 1359 during 1924, or increase of approximately 55 per cent 1924 over 1916, at the same time total train miles decreased from 5,115,562 during 1916 to 3,521,960 during 1924, or 45 per cent while total gross ton miles increased from 4,484,350 during 1916 to 4,787,805 during 1924, or approximately 7 per cent. The gross ton miles increased 7 per cent from 1916 to 1924. With improved track conditions speed was increased, unit of fuel consumption decreased and gross and net tons per freight train mile increased as follows: speed, miles per hour, in 1916 was 11.5, 1921 11.1, 1924, 12.3. Gross tons per freight train hour in 1916 were 9,937, 12,125 in 1921 and 13,528 in 1924. Net tons per freight train hour in 1916 3,807, 1921 5,090, 1924 6,629 (Tr. 4852-4853-4854).

1924 compared with 1916 speed increased 7 per cent, unit fuel consumption decreased 29 per cent, gross tons per hour increased 36 per cent and net tons per hour increased 74 per cent.

Enhanced efficiency in operating our freight trains during 1924 compared with 1921 and 1916 is indicated in the following averages for those years: average loaded cars per [fol. 592] train, 1916 17.0, 1921 21.0, 1924 24.0; average empty cars per train, 1916 6.8, 1921 13.6, 1924 14.0; average cars per train, 1916 23.8, 1921 34.6, 1924 38.0; gross tons per train, 1916 877, 1921 1,211, 1924 1,359; average net tons per train, 1916, 335, 1921 466, 1924 517; speed per hour, 1916, 11.5, 1921 11.1, 1924 12.3; average net tons per loaded car, 1916 19.8, 1921 22.0, 1924 22.4; gross tons per train hour, 1916 9,937, 1921 12,125, 1924 13,529; average net tons per train hour, 1916 3,807, 1921 5,090, 1924 6,629.

If the average gross tons handled per freight train mile in 1916 had obtained in 1924 1,937,338 additional train miles would have been required, entailing an additional expenditure for locomotive repairs, enginehouse expense, wages of

train and engine crews, fuel and train supplies and expenses of $3,184,984 (Tr. 4854).

Increased prices of fuel, materials and supplies, wages of persons engaged in repairing and caring for equipment, train and enginemen, together with punitive overtime payment increased the average cost per mile to operate freight trains, which was 78.79 cents in 1916 compared with 172.0 cents in 1921, an increase of 93.21 cents, or 118 per cent, and 164.4 cents in 1924, an increase of 85.61 cents or 108 per cent, whereas, by heavier loading of trains the cost per one thousand gross ton miles in 1916 was 88.43 cents compared with 145.4 cents in 1921 and 125.4 cents in 1924, or an increase of only 64 per cent 1921 and increase of only 42 per cent in 1924. Locomotive maintenance per mile in 1916 was 12.1 cents and in 1924 30.8 cents, increase of 18.08 cents or 149 per cent, and average cost fuel oil per gallon 1916 was 1.62 cents compared with 2.33 cents in 1924, increase of .71 cents or 43 per cent.

[fol. 593] Improved track conditions permitting increased speed, heavier train loading and program for superheating the large locomotives contributed materially to the better fuel performance. To satisfactorily handle the traffic offered and provide equipment to meet our own requirements, the following freight and company material cars were purchased since 1916: 300 cars of ballast, steel underframe, at a cost of $782,900.00, 310 cars tank, all steel, at a cost of $791,260.00, 1,000 cars autobox, steel underframe, at a cost of $2,016,000.00, 1,000 automobile cars, steel underframe, at a cost of $2,139,000.00, or a total of 2,610 cars at a cost of $5,729,160.00. In addition 7 units of work equipment, 4 pile drivers, 2 steam wrecking cranes and 1 ditching machine, all of the latest improved design, were purchased at aggregate cost of $151,120.00, necessary for handling the heavier equipment operated. To accomodate the larger trains 21.62 miles of additional passing tracks have been constructed at cost of $432,691.14, providing 28 additional facilities and 76 existing passing tracks were extended, total of 20.78 miles, at cost of $373,095.89 (Tr. 4855-4856).

Due to steadily increasing cost of coal, oil has been substituted for fuel, the conversion of 266 locomotives being required, further, to effect the utmost economy, stationary

boilers have been converted to use different fuels as the local conditions justified and would result in less cost for the fuel consumed.

A program was started in 1916 to rebuild and modernize freight train cars equipped with steel draft arms, modern draft gear and in every way brought up to the best standard. Extensive enlargement of shops and roundhouse facilities have been made, larger turntables installed, new [fol. 594] improved design shop machines installed to economically and efficiently maintain the larger locomotives operated.

Locomotive failures year 1916 were 1,098, compared with 356 in 1921 and only 296 in 1924, a decrease of 802 failures in 1924 over 1916, or nearly 73 per cent. The improved locomotive performance, more speed and other attending operating conditions permitted less interrupted movement, miles per car per day being 26.9 in 1916; 26.2 in 1921 and 28.0 in 1924, an increase 1916 to 1924 of 1.1 miles per car per day, or 4 per cent (Tr. 4856-4857).

Expenditures for maintenance of equipment 1916 to 1924 increased from $3,142,607.00 to $6,471,081.00, or more than 105 per cent, although only 23 per cent more man hours were employed, indicating the increased cost of wages, prices of materials and supplies more than made up the difference. Expenditures for maintenance of way and structures increased from $2,109,951.00 to $4,841,083.00 or 129 per cent, notwithstanding only 2 per cent more man hours were employed. Increased wages and prices of materials and supplies more than making up the difference.

The standard of maintenance of the tracks has been greatly improved, bridges strengthened to increased capacity to safely carry the larger and heavier trains, hundreds of pile trestle bridges replaced with permanent concrete waterways, diminishing future maintenance expense, tie plates and treated ties applied in addition to many other general improvements all directed to ultimate economy and safety.

Yearly expenditures for Additions and Betterments increased from $1,418,284.00 in 1916 to $4,086,516.00 in 1924, or 188 per cent. The total net expenditure for improvement [fol. 595] being $27,433,331.00. The saving in conducting transportation through greater train loading, pointed out

in the foregoing, amply warranted these expenditures, although part of the improvements have no direct bearing on train loading.

Ratio of expense for conducting transportation to operating revenue for 1916 was 37.60, while for 1921 it was 38.70 and for 1924 it was 34.30; and while operating revenue increased 62 per cent 1924 compared with 1916, operating expenses increased only 48 per cent, indicating efficiency and economy in operation, taking into consideration the very heavy expense chargeable to operation incident to the extensive improvement work done.

During the years 1917, 1920 and 1923, four interlocking plants were installed at cost of $10,438.21, and seven similar facilities now under construction or authorized at cost of $68,204.84. During 1923 and 1924 automatic signals at draw-bridges were installed at cost of $18,440.64. Construction of new terminals now in progress, as follows: at Dallas, Texas, expense of $989,019.00; Shreveport, Louisiana, $1,050,745.00; Alexandria, Louisiana, $540,000.00; or a total of $2,579,764.00. Increased efficiency and saving in operation is being steadily realized from the expenditures for additions and betterments to road and equipment. The cost of $10,438.21 referred to was the total cost for the four interlockers (Tr. 4857-4858).

Freight revenue and ratio payments to revenue have shown an improvement in recent years. I might explain about those interlockers, there are several of them that were converted from a manual plant to what is known as cabin top plants and the expense was not as great as the new interlocker plants (Tr. 4859).

Cross-examination:

The main line between Ft. Smith and Texarkana is the [fol. 596] line from Longview to Texarkana which runs through Mineola and Longview. The other line is classified as a branch line from Shreveport. The main line from New Orleans is the line via Lucas. Of the total mileage of the Texas & Pacific, 1466 miles is main line mileage and the balance is branch line (Tr. 4859-4860).

The losses sustained in the rates on sugar are not rates which apply to the transportation of the cane to the mill. Those are the local rates of the Texas & Pacific (Tr. 4860).

The transformation of our locomotives from coal burners to oil burners produced economy and efficiency in operation to some extent. The burning of oil is more economical at this time than burning coal, but it is getting very close to the dividing point. We are contemplating changing back to coal now because of the increased price of oil (Tr. 4860-4861).

W. M. WHITTENTON was thereupon called as a witness and testified as follows:

Direct examination:

I am operating Vice President of the Missouri-Kansas-Texas Lines, residence Dallas, Texas.

(Attorney Towner here conceded the witness' qualifications.) (Tr. 4861.)

The Witness (continuing): I have prepared a statement of facts which in my judgment show the Missouri-Kansas-Texas Lines are being efficiently and economically operated. The M. K. T. Lines now operate 3,193 miles of main and branch line, main track, of which approximately 230 miles is used under trackage arrangement. Yard and side track mileage owned and operated 1,327. Some of the more important and larger cities reached by our lines are Saint Louis, Kansas City, Sedalia, Coffeyville, Oklahoma City, Tulsa, Muskogee, Dallas, Fort Worth, Wichita Falls, Waco, Houston, Galveston, Austin and San Antonio. The M.-K.-T. Lines cover a considerable part of the territory [fol. 597] known as the Southwest and was one of the pioneer lines in this territory. The Southwest is still very thinly populated and subject to much future development. This is indicated by the fact that it is taken care of in a transportation way largely by single track lines. The M.-K.-T. lines second track mileage is less than 74 miles (Tr. 4861-4862).

For the fiscal year ending December 31st, 1916, the gross earnings of the M.-K.-T. Lines as then constituted (average miles operated that year being 3,865) was freight $24,795,719.00, passenger $9,215,627.00, mail $783,676.00, express $1,055,446.00, miscellaneous $883,214.00, making a

total of gross earnings from operation of $36,733,682.00. In 1924 the gross earnings were—freight $42,332,000.00, passenger $10,457,000.00, mail $1,190,000.00, express $1,828,000.00, miscellaneous $1,502,000.00, total $57,309,000.00. This is an average mileage of 3,193 miles. The M.-K.-T. Lines freight tonnage comes largely from manufactures and miscellaneous, this division represents 39.46 per cent of the total tonnage as compared to 19.32 per cent for 1916; products of agriculture supplies 20.03 as compared with 22.04 per cent in 1916; products of animals 4.78 per cent compared with 4.97 per cent in 1916; products of mines 26.88 per cent compared with 40.73 in 1916; products of forests 4.79 per cent compared with 7.57 per cent in 1916, and L. C. L. merchandise 4.06 per cent as compared with 5.37 per cent in 1916. The revenue train load in 1916 was 337.87 tons, and in 1924 573. The passenger service is another story—In 1916 these lines carried 6,604,249 passengers as compared with 3,041,445 passengers in 1924. The average haul per passenger in 1916 was 62.68 miles while in 1924 it was 102.45, showing the loss of short haul traffic. In 1916 passenger train mileage was 8,029,479 miles, while in 1924 it was 6,202,816—a much larger percentage of decrease in passengers carried than in trains run (Tr. 4862-4863).

[fol. 598] The physical condition of Missouri-Kansas-Texas Lines property today is improved over what it was some ten years ago when it was placed in Receivership, on September 27th, 1915, and so operated until April 1st, 1923. The freight train performances, that is train load, train speed and per cent of power rating utilized, have been climbing upward and the operating expense ratios to revenues downward. The gross train load for 1925 over 1918 was increased 54 per cent, the speed increased 17 per cent, with an increased per cent of rating utilized of 68 per cent for 1918 to 85 per cent for 1925, or an increase of 25 per cent. If the train load of 1918 had prevailed, it would have required the use of 2,757,863 more freight train miles to have handled 1925 freight traffic. No statistics were made of train speed and per cent of power utilized prior to year 1918. The train load for the year 1924 was 71 per cent heavier than for the year 1916; the revenue ton miles carried in 1924 compared with 1916 increased 27 per cent,

while freight train miles decreased 25 per cent, which is largely reflected in the operating ratios for the two years. In 1916 the operating expenses used 80.14 per cent of the revenues, and for 1924, 69.33 per cent. The transportation ratio for 1916 used 33.74 per cent of gross, compared with 30.30 in 1924. The M.-K.-T. Lines stood in seventh place of all Class One Railroads in rank in transportation showing. I mean all Class 1 roads of the country (Tr. 4863-4864).

These economies in operation did not happen or come about from any abnormal or influx of traffic, but were brought about by the close cooperation and hard work of some 15,000 officers and employes working to reach a common goal and by the use of nearly fifty million dollars spent for rehabilitating and strengthening roadway, extension of block signal territory, better water facilities, terminal re-[fol. 599] vision, heavier power and tools and facilities to repair it, fewer accidents, lower claim payments and the use of much modern appliances as have been proven practical. For permanent way and structures, the expenditure for improvements for the nine years, 1916 to 1924 inclusive, amounted to $29,390,775.00. At the beginning of the Receivership in 1915, more than half of main track mileage in main and branch lines was made up of 66 pound rail and rail of lesser weight, and a third of the mileage was unballasted; for the most part laid with untreated cross ties not tie-plated. The rail situation, and other roadway conditions then existing, made it necessary during the succeeding nine years to adopt extensive programs in annual budgets for putting down heavier rail, new ballast, tile drainage, bank widening, replacing pile trestles with permanent structures and strengthening others, line revision and use of treated ties. The mileage of 90 pound rail was increased 572 miles and the light rail territory was reduced 508 miles; approximately 500 miles of unballasted track was ballasted and the ballasted track has been maintained in an improved condition. Yearly tie renewals averaged 1,122,565 ties, or approximately 380 ties per main line mile—all treated and tie-plated. In 1916 the aggregate mileage of pile trestles then existing was 60 miles, which was reduced to 35 miles in 1924 (Tr. 4864-4865).

For line revision at various points we have spent $232,717.00. Block signal territory has been increased from 116 miles in 1916 to 457 in 1924, and new installation of 45 water treating plants and 35 fuel oil stations. Side tracks have been extended and new ones constructed amounting to an aggregate of 290 miles. These improvements have made it possible to increase the weight of power and length of train, which have played an important part in the present day train performance (Tr. 4865).

[fols. 600 & 600½] Terminal expansion, yard revisions and better freight station facilities were early recognized by the Receiver as some of the most needed improvements for properly and economically handling the freight traffic, and this work has been carried forward from year to year. Of the $29,390,775.00, there was spent for terminal improvements during the nine year period $11,159,000.00, and a saving in operating expenses has resulted, which for the year 1924 amounted to $833,800.00. Among the terminals that have been extended or relocated are the following: New Franklin and Lindale, Missouri; Parsons, Kansas; Muskogee, McAlester and Oklahoma City, Oklahoma; Denison, San Antonio and Dallas, Texas. There have been five modern freight depots built at various points, and a seven story warehouse building constructed at Dallas, Texas. The terminal facilities at San Antonio cost more than two million dollars; a complete yard rearrangement was made at Parsons, Kansas, giving a better facility for handling the classification and other terminal work, and at a lower cost. The lines from Oklahoma City, from Junction City, and from Joplin, from Kansas City, from Denison and from St. Louis converge at Parsons, making it one of the more important terminals. At Ray, Texas, near Denison, at an expenditure of more than three million dollars there was built and put in operation in 1923 a new freight yard terminal, also engine terminal and accessories. This is the most important terminal on the railroad and the old plant was entirely inadequate to handle the business. The business moves in four directions in and out of Ray, that is over the line to Dallas, to Fort Worth, to Wichita Falls and to McAlester. In a sense, Ray is the neck of the bottle and geographically about the half-way point. In planning the

new yard, we undertook to provide an up-to-date facility [fol. 601] and have not been disappointed in the results because we have been able to cut our costs down and lighten the burden at other terminals. Other terminals are permitted to start trains in the direction of Ray without regard to order in which cars are placed in train; Ray does the blocking or classifying, as well as all the weighing possible because automatic scales have been located below the summit of the hump and no extra move is necessary to do the weighing. Trains are started from Ray terminals in all directions, blocked in the order desired, with all cars weighed, hence very little, if any, handling or separation is required at other terminals of the through traffic. It is our purpose to have all general classification possible made in Ray Yard, where the switching is done economically, and for trains to leave there in proper order. Cars are pushed from receiving yard over hump and moved by gravity, accompanied by rider, to proper track in classification yard from which trains depart; separate humps are provided for each receiving yard. Engines are dispatched to and from enginehouse and move without interference between enginehouse and receiving and departure yards. Caring for power had proper consideration and modern enginehouse layouts were provided in the terminal revision programs (Tr. 4866-4867).

For new equipment and improved appliances in the Locomotive and Car Departments, the expenditure for the nine year period was $17,929,300.00. The improvements to permanent way and structures, lengthening side tracks and yard revisions, has made possible, with safety and economy, the use of heavier switching and road locomotives. The average tractive power for freight engines owned in 1916 was 36,249 pounds, in 1924 an average of 45,836 pounds. This came about by the purchase of 85 additional [fol. 602] Mikado type freight engines and thirty eight-wheel standard switchers of 51,000 tractive power, and by retirement of engines too light or for other causes unfit for conversion to switch power or other service. There were also purchased 25 Pacific type passenger engines. We use a Mikado type locomotive of 61,000 tractive power in our main line freight service and about 90 of those engines

are now equipped with a booster which increases their tractive power to about 73,000 pounds. These and all of our modern power are superheated and equipped with modern appliances. We had in 1924, forty freight locomotives of the Mikado type equipped with booster, and in 1925 we had sixty equipped and assigned to selected territory where the grades or other conditions theretofore required doubling, pusher service or cutting down the train load. We have dispensed with the doubling or pusher service and have maintained a better average train load with the use of the booster, and are extending its use wherever economy will result (Tr. 4868).

In 1919 and 1920 the price of coal, and availability of oil at a satisfactory price, made it essential to convert all of our engines from coal to oil except on the St. Louis District. In 1924 we had 529 locomotives in oil out of a total of 592 owned, while in 1916 we had but six in oil. The total engines superheated in 1924 were 389, and in 1916 only 179. In 1924 327 equipped with modern valve gear and other appliances and in 1916, 184.

Our general overhauling or classified repair work is taken care of in our two principal shops located at Parsons and at Ballmead near Waco, Texas. We operate in six directions out of Parsons and in four out of Waco, hence it will be seen that these plants are well located. The Locomotive Shop at Bellmead was put in operation in 1923 [fol. 603] at a cost of approximately $2,000,000.00; and a Freight Car Shop at Denison at an approximate cost of $500,000.00 was put in service in 1925. Modern machines and up-to-date power plants have been installed at Parsons, Bellmead, Denison and Ray. In addition, there has been expended in the past five years better than $800,000.00 in modern machines for roundhouses and outside engine terminals, in order that motive power and cars can be properly and economically repaired (Tr. 4869).

We have improved the locomotive mileage between shoppings and engine failures. In 1916 the miles between shoppings averaged 40,372, and in 1924 averaged 64,284 miles: in 1916 the average miles per engine failure were 12,500, and in 1924 54,495, or a better performance by 340 per cent. The number of freight cars owned in 1916 was

23,708, of which 15,712 had wooden underframes; the average capacity was 66,981 pounds; in 1925 the ownership was 21,749 and only 2,148 wooden cars—average capacity 72,604 pounds. In 1925 we purchased 1,000 new 40 foot, 50 ton steel underframe box cars and rebuilt in our own shops 2,100 box cars (Tr. 4869-4870).

The amounts totaling $47,320,076.00 for improvement projects, which I have in part described on our own property, do not include any part of the millions of dollars expended by proprietary lines for improvements during the nine year period upon which Missouri-Kansas-Texas Lines pay an annual interest rental rate for improvements to jointly operated tracks, freight terminals and passenger stations. We enter St. Louis over the C. B. & Q., coming onto its rails at Machens—a distance of 25 miles out. We enter Kansas City over Frisco rails coming onto its rails at Paola—this distance is 41 miles, and during the past nine years a second main track has been laid at a cost of more [fol. 604] than a million dollars on the Paola-Kansas City line. The joint line between Whitesboro and Fort Worth, 71 miles in length owned by Texas & Pacific, had extensive improvements made to it during M.-K.-T. Receivership period. We use 30 miles of main track of I.-G. N. between Austin and San Marcos, Texas, and during past nine years this property has been completely relaid with new rail, reballasted and extensive bridge renewals made. The Kansas City Terminal Company, of which the M.-K.-T. Lines is a tenant, has expended millions of dollars for grade separation and other necessary improvements upon which we pay an interest rental. While none of this money is involved in our own capital expenditures, there is interest rental to pay on the funds advanced by the proprietary company—we pay for such improvements, only in a different form of bookkeeping. In all of these arrangements, except the Kansas City Terminal, we are the only other user and share a joint and equal obligation with the owner of cost of improvement work by paying interest on the whole cost at the current rate, divided by two, in effect at time of execution of agreement. The line between Houston and Galveston is operated by the Galveston-Houston and Henderson Railroad Company equally for the I.-G. N. and M.-K.-T. The

G. H. & H. carries its own capital expenditures and no part of the improvement on the 50 miles of main track between Houston and Galveston and to the large terminals at Galveston was included in the $47,320,076.00, which I have stated was spent on M.-K.-T. property (Tr. 4870-4871).

I will only make brief reference to some of the extraordinary measures adopted, that is, movements which a few years back were unknown in railroad practice and now in effect on our lines, looking towards economies in operation. [fol. 605] Among these, is an apprentice school in our shops at Parsons and Waco for training young men in the arts of skilled mechanics' trades. The training of young men in roadway work is another educational program—these young men are placed as student foremen and are given the advantage of schooling under a number of experienced foremen on the district (Tr. 4871-4872).

A Committee on Conservation of Material, Labor and Supplies has proven a capital money saver. The personnel is made up of district representatives with a member from General Manager's staff, and are given a free lance in offering suggestions and recommendations. No department excapes the vigilance of these economy workers. Only a few days ago a Committee visited my office at Dallas for the purpose of checking it up.

Our Safety work is carried on along defined lines. Persons killed decreased one-half in 1924 compared with 1916. Extra hazardous practices by men in the ranks existing a few years ago have been greatly reduced for there is a Safety Committee man at his elbow now giving a word of caution. In the past five years, since the Safety Organization started its work, we have more than trebled our crossing bell installations, doubled the number of interlocking plants at crossings, both for safety and economy, and have put in such devices around machines in our shops as have proven of value in the interest of safety. Warning signs have been put up everywhere it was felt good would result (Tr. 4872).

Our Freight Claim Prevention Organization is active and justifies its existence in constructive work. Our 1924 claim ratio was .91 per cent. We expect to prevent claims by educating the employee in the ranks to follow up-to-date

practices in carrying on his work, and in that way prevent injury and wa-te.

[fol. 606] The Fuel Department specializes in the economy feature. In 1918 the average pounds of coal per 1,000 gross ton miles was 218, and in 1924 the average pounds of coal per 1,000 gross ton miles decreased to 135 pounds, making a 40 per cent reduction. No unusual practice or device contributed to this saving. We select capable traveling men and require them to see that enginemen do their firing and engine handling according to approved fuel economy practices and to see that proper regard is given to the fuel matter at roundhouses when engines are standing edle. Both our freight and passenger engines are running over much longer territories than they were in 1918 and fewer roundhouse handlings are necessary. This has contributed to fuel savings, also a better failure performance has halped the fuel showing. This important and major item of railroad operating expense has the serious and constant consideration of our executives, as well as all operating officials. Our President, some time ago, posted an award offered to the inventor of a practical device that would cut down the loss of heat units in burning oil (Tr. 4873).

We use the telephone for train dispatching over a distance of 2,250 miles, and have a system conversation telephone circuit with reduced expense for telegraphing. I believe it is generally well known that Train Dispatchers are able to handle more territory by use of telephone instead of Morse.

We own and operate a treating plant and treat our own ties and other timber at a lower cost than would be charged for having it done on the outside.

It has been our practice to periodically secure a Westinghouse Dynamometer Car for use in measuring efficiency of locomotive operation, train load, and for study of gradients. One of these cars was last on our line for several [fol. 607] months in 1924. I cite this merely to illustrate that we have availed ourselves of the use of such modern devices for studying railroad operation and economies as have been proven practical, which, however, is only typical of the policy adopted by other railroads in this territory.

These are the major items which brought about the average train load of 1,857 tons gross in 1925, as compared

with 980 tons gross in 1916, and an operating ratio of 69.33 and a transportation ratio of 30.30 in 1924, as compared with an operating ratio of 80.14 and transportation ratio of 33.74 in 1916—notwithstanding very great increases in all labor and material costs as between the two periods (Tr. 4874).

While mentioning this decrease that we have, by various economies, been able to effect in our operating ratio 1924 compared with 1916, it should be explained that operating expenses, as here stated, do not include taxes which the M.-K.-T. Lines have had to pay and which have had to come out of its income. They have greatly increased in this period, being $1,546,659.00 in 1916 and $3,215,687.00 in 1924, or an increase of 107.9 per cent. The gross revenue in 1924 per mile of road operated was only 89 per cent more than in 1916, but the taxes per mile of road owned were 153 per cent more.

While we have made substantial improvements with resulting substantial economies, it should also be pointed out that the owners of the property have not during any of this time been able to secure a dividend except that small amount paid in 1924 on preferred stock, which, of course, bears a prescribed rate. If progress is to continue, further economies demand and require the expenditure of large sums of [fol. 608] money in the future, otherwise, the property will not keep pace with the development of the Southwest. Much remains to be done in terminal expansion, yard revision and providing better roundhouse facilities at a number of important points, which include St. Louis, Kansas City, Waco, Smithville and Houston. These improvements will require the expenditure of several millions of dollars to create proper and adequate facilities for efficiently and economically serving the public (Tr. 4875).

Some of the secondary lines, including the Texas Central property, Waco to Rotan, and the Junction City line from Parsons to Junction City, Kansas, now entering a greater period of development, will require an annual expenditure aggregating several hundred thousand dollars to improve their present physical condition, and this must go on from year to year until these secondary lines are made physically better railroads.

One hundred miles of heavy rail must be laid each year in the main line—the released rail going to secondary lines. There also remains many miles of side and passing tracks yet to be constructed.

A period of five to seven years longer will be required to complete the bridge program for changing out wooden and light steel structures—this work will call for an expenditure of two to three million dollars to bring about its final consummation. Very little has, as yet, been done in the way of reducing grades and line revision. It has been necessary to defer this class of improvements for the work I have described, not that the disabilities and extra cost in operation were not keenly felt in every year's results.

St. Louis and Kansas City are the important gateways where interchange of freight traffic is made between North- [fol. 609] ern and Eastern Lines and the Northwest roads and M.-K.-T. Lines. On the St. Louis line there are territories where the maximum tonnage rating has to be reduced more than one-half due to excessive grades. Between St. Louis and Franklin the train load, in both directions is 3,000 tons, but between Franklin and Sedalia where there are a number of long grades ranging from 1.2 per cent to as high as 1.6 per cent the maximum tonnage handled by a Mikado type freight engine of 61,000 tractive power south is 1,350 tons, and north 1,450 tons, which is increased approximately 350 tons by cutting in the Booster. On the Kansas City line, there are some fifteen places where the grades are 1.2 to 1.3 and the maximum rating maintained over this territory is 2,150 tons south and 2,240 tons north without Booster. Parsons to Muskogee the train load is 3,100 tons, with Booster 3,600 tons. Millions of dollars must be spent to correct the existing grade situations on the St. Louis and Kansas City lines in order to economically handle our traffic over these territories, and this work should be undertaken soon (Tr. 4876-4877).

Besides economies to come from a better permanent way and structures, such as I have just outlined, and yet to be secured, we must also replace and secure additional and larger equipment both freight and passenger cars to load and engines to haul them. Any benefits to be taken advantage of and enjoyed by the Southwest in service must

result from sums yet to be spent upon this property. To satisfactorily handle the freight and passenger traffic over the M.-K.-T. Lines, it is essential that during the next ten years even more be spent for permanent improvements both of way and equipment, than was spent in the last ten years. An amount not less than seventy-five million dollars will be required for this purpose, and what is true in respect [fol. 610] of the M.-K.-T. Lines is likewise true of other lines in the Southwest (Tr. 4877-4878).

Before closing, and in speaking of sums which the railways are called upon to provide, mention should be made of the fact that in the larger cities like San Antonio, Houston, Dallas and Fort Worth, we are constantly confronted with calls from municipalities for expenditures of large sums, increasing in number from year to year. I refer to separation of grades in these cities and throughout the country where good roads have been built. At Dallas alone, an expenditure of $432,941.00 has been made for separation of grade. And at the immediate moment we have confronting us three separate propositions at Dallas and Fort Worth that will require better than two hundred thousand dollars to put them through. Funds required for this class of improvements will run into millions of dollars before we get through with it (Tr. 4878).

All of the sums spent during the Receivership in rehabilitating the property came out of earnings and during the Receivership it was put back into the property rather than devoted to payment of interest. During the Receivership very large sums of interest were defaulted upon, and the money put back into the property and three million dollars of improvements were financed out of the issuance of Receiver's Certificates (Tr. 4878-4879).

E. H. Holden was thereupon called as a witness and testified as follows:

Direct examination:

I am General Superintendent of Transportation for the Kansas City Southern Railway. I have had about thirty years experience in transportation and operating depart-

ments of the railroad. I began as a messenger and operator station clerk, train dispatcher, chief dispatcehr, superintendent, general superintendent (Tr. 4879).

[fol. 611] The Kansas City Southern Railway operates an average mileage of 854 miles. That is the entire system. That does not, of course, include 103 miles of terminal in Kansas City, Missouri. It includes only the main line through the terminal (Tr. 4879-4880).

I have prepared under my direction and supervision a profile of the line of the Kansas City Southern Railway (Tr. 4880).

The profile referred to by the witness was thereupon offered in evidence as Exhibit A-115.

(Exhibit A-115 was received in evidence).

[fol. 612] The traffic of the Kansas City Southern has shown substantial increase in the period year 1910 to January 1926. The territory which the Kansas City Southern traverses has been and is now in process of development; the Kansas City Southern has made heavy investments from its earnings, as well as from funds secured through loans, for development and improvement of its line to take care of the growing traffic of its tributary country and for the economical handling of this and other traffic. Much of the country through which the Kansas City Southern passes is topographically rough and broken, some of it sparcely settled and some unproductive; consequently do not enjoy a heavy local traffic. Heavy expenditures have been necessary in connection with improvement of operating facilities and bettering operating conditions. New and modern locomotives with increased tractive power and cars of modern construction more durable and with greater carrying capacity have been purchased, making necessary heavier rail, stronger and more modern bridges for the accom-odation of larger type locomotives, mallet design, relocation of some main track, revision of grade lines, new passing tracks in new locations, and extensions to existing passing tracks and the construction of other sidings has been instrumental in bringing about operating results and economies (Tr. 4880-4881).

It is felt that the freight tonnage of these lines is efficiently handled; in the year 1924 there was an increase of

40.6 per cent gross ton miles handled over that handled in 1907, with a decrease of 34.3 per cent in freight train miles. The net ton miles handled in the same period shows an increase of 49.4 per cent to some extent due to heavier car loading. The average gross train load for the year 1907 was 717 tons, for the year 1924 it was 1,759 tons, an increase of 1,042 tons, or an increase of 145.3 per cent, with an increase of but 69.2 per cent in average tractive power [fol. 613] per unit of freight locomotives, indicating the potential power of locomotives being more fully utilized. The average tractive power of freight locomotives owned in 1907 was 32,218 pounds, in 1924 54,524 pounds. The average miles per car per day year 1908 was 20.7, year 1924 40.9, an increase of 20.2 miles per day, or 97.6 per cent —almost double—indicating freight cars loaded, unloaded and handled efficiently (Tr. 4881-4882).

Blue prints submitted show that the country traversed by the Kansas City Southern and Texarkana & Fort Smith Railways between Kansas City, Missouri, and Texarkana, Texas, is rough and broken; considerable part of its mileage is through the hilly and mountainous territory of the Ozarks in southern Missouri, through the State of Oklahoma, and in northern and southern Arkansas. Operation is expensive due to small amount of tonnage per unit of power that can be handled on account of grade line, heavier fuel consumption, slower train movement and in the use of helping locomotives. To have full tonnage trains after reaching the rolling country 23 miles out of Kansas City, southward, it is necessary to provide helper service over the 1.6 per cent grade about one mile in length between Dodson and Grandview, Missouri. On the second operating district helper service is provided between Neosho, Missouri, and Watts, Oklahoma, both directions due to the 1.8 per cent grades. Prior to the time the larger type mallet locomotives were placed in service it was necessary to maintain helper service at other points, and while the cost of this expensive operation has been somewhat reduced by the use of these large and expensive mallet locomotives, we still have the heavy grades to contend with. Mallet type locomotives are in a way double locomotives, their maintenance cost is heavy, higher wages are paid for their operation, fuel consumption is heavy, their movement is neces-

[fol. 614] sarily slow, and the cost of track maintenance is increased due to their use (Tr. 4882-4883).

The Kansas City Southern has 29 Mallet type locomotives. The largest type tractive effort is 144,559 pounds. That is brought about through the use of a superheating device and a booster added. The Kansas City Southern Railway owns 170 locomotives. The road has not been able to eliminate helper service at all points other than that which is provided over the grade between Dodson and Grandview, Missouri. We continue to use helper service on the second district, that is on the territory between Neosho, Missouri and Watts, Oklahoma, and to some extent on the fourth district between Heavener, Oklahoma, over the top of the ruling grade in that territory. Prior to this time there were still other places where we added helper service more than we do at the present time. That has been eliminated through the use of these larger locomotives (Tr. 4883-4884).

Operation costs are increased through local regulations by State legislatures, Public Utilities Commissions, and municipalities in the States and communities through which the line passes. In Arkansas there are what is known as full crew bills which require the use of a third brakeman on freight trains of 25 loaded or empty cars or more, and three switchmen on switching crews that switch cars over any public highway crossing within cities of first and second class. Practically all of the freight trains operated by the Kansas City Southern Railway within the State of Arkansas consist of more than 25 cars. The line is peculiarly located, in entering the State of Arkansas in three localities, on three separate operating districts. The labor cost to the railway company for this additional force required, and for which there has been found no real need, on account of the full crew law for the years 1918 to 1924 inclusive was $235,915.40, for the first 10 months of 1925 $28,517.84, total [fol. 615] $264,433.24; on account of the full switching law $40,087.60 for the years 1918 to 1924, and for the first ten months of 1925, $3,730.93, total $43,818.53; the total cost being for the years 1918 to 1924 inclusive $276,003.00, for the first ten months of 1925 $32,248.77, grand total $308,-251.77. In the State of Louisiana the Public Service Commission required the operation of a passenger train each

way daily between Shreveport, Louisiana, and Lake Charles, Louisiana, at an expense to the railroad of approximately $191,568.00 per annum. This territory already had double daily local passenger service each way, which was considered fully adequate. We have contested the order in the courts, but have been unable to get relief from this expense. In this and other states authoritative bodies have required opening of stations or offices, the construction of new or remodeling of old station buildings, that to us appeared unwarranted for the business handled (Tr. 4884-4885).

The Kansas City Southern feels the burden of taxes. The railroads are called upon to bear a heavy proportion of the cost of paved highways, many of which parallel their lines and are used by bus and truck lines, competing, resulting in loss of revenue to the railroads. There is now under construction a paved highway southward that will parallel the Kansas City Southern for several hundred miles out of Kansas City. The total annual taxes of the road for the year 1925 were $1,350,567.66 or 6.39 per cent of our revenue. That was an increase of sixty nine thousand dollars over the year 1924. The average haul of our traffic year 1924 was 221 miles, compared with 256 miles for the year ending June 30, 1911, showing a decrease of 35 miles (4885-4886).

A considerable proportion of the line's traffic originates or takes destination in or beyond Oklahoma, Arkansas, Loui--ana and Texas, moving over the heavy grade territory, and a great deal of its passes through the Kansas City [fol. 616] Terminal at a heavy switching cost. Grain handled originates at points north of and at Kansas City, moves to Texarkana and Shreveport territory and to Port Arthur and other Gulf ports. Lumber and other forest products, petroleum and its products, move from Louisiana, Texas and Arkansas, passing through these terminals. The development of the territory, congestion at terminals, together with necessity for decreased operating costs have required the expenditure of large sums of money for improvements. Capital expenditures for improvements of road (including grade revision, bank widening, ballast, heavier rail, new and extensions to existing passing tracks,

signal protection, new yards, elimination of grade crossings), shop and engine-house improvements, purchase of new and improvements to existing locomotives and freight cars, and so forth from July 1, 1907, to December 31, 1925, have amounted to an approximate total of $26,987,350.00. Of this amount, the following are some of the principal items: rails, ties and other track material, $3,004,229.00; grading, $5,040,490.00; bridges, trestles and culverts, $1,687,270.00; ballast, $2,117,998.00; track laying and surfacing, $1,538,044.00; station and office buildings, $908,347.00; shops and engine-houses, $1,291,426.00; shop machinery and tools, $889,451.00; water stations, $272,401.00; fuel stations, $322,182.00; steam locomotives, $3,420,108.00; freight train cars, $1,779,189.00 (Tr. 4886-4887).

As an indication of what has been done in recent years to improve the property, the following separate items are selected from the above for the period June 30, 1914, to December 31, 1924: purchase of new locomotives, $1,901,894.00; rebuilding locomotives, $62,077.00; applying superheaters, $80,038.00; applying boosters, $39,155.00; other [fol. 617] modern improvements, such as coal pushers, air doors, piston valve cylinders, valve gear, cross compound pumps, etc., $149,650.00; purchase new freight cars, $2,311,387.00; improvements to existing equipment, $800,868.00; new and extended passing tracks (137,951 lineal feet), $475,579.00. The total of those figures just referred to is $5,820,648.00 (Tr. 4887-4888).

At one time the Kansas City Southern had a very expensive line revision. That started in the latter part of 1910 and extended through 1911 and 1912. It brought one district of 102 miles from a one per cent to a five tenths grade line and brought another 125 mile district from one and one quarter per cent to a five tenths grade line. That involved the construction of some nine miles of new railroad (Tr. 4888).

The use of heavier power has made it necessary for the property to go to a hundred pound rail. In the year 1925 there was constructed a transportation yard at Shreveport, Louisiana, at a cost of approximately $500,000.00 and a yard at Port Arthur, Texas, at a cost of $135,630.00. A new line extending from Asbury, Missouri, to Baxter Springs,

Missouri, has been completed costing approximately $477,420.00. There is now under way highway and railroad grade crossings elimination work at Shreveport, Louisiana, which will cost when completed approximately $600,000.00. There is a new low grade line project between Kansas City, Missouri, and Grandview, Missouri, to cost approximately $2,000,000.00, now authorized, the right of way purchases having been about completed (Tr. 4888-4889).

The installation of block signal and automatic train control under order of the Interstate Commerce Commission is under way on this line. Our betterment program for the year 1926 contemplates an expenditure of $1,369,288.00, of [fol. 618] which the following are some of the principal items: replacing 85 pound rail with 100 pound rail in 37 miles of main line track, $84,246.00; miscellaneous relaying of light rail in yard tracks including the application of additional tie plates to protect treated ties in main line track, $66,234.00; bridges, trestles and culverts, $92,672.00; additional yard tracks, sidings, etc., $92,352.00; freight and passenger stations and other station facilities, $88,098.00; water and fuel stations, $43,003.00; shop buildings, engine-houses, etc., $164,892.00; shop machinery and tools, $24,245.00. It will require investment of an unusual amount of additional capital to install improvements to make for further reduction in our operating costs (Tr. 4889).

I have included in the statement of expenditures and have also shown in the profile and statement of physical characteristics of the Kansas City Southern the entire Kansas City Southern system. I included the 81.09 miles of the Texarkana and Fort Smith Railroad in these operating figures. I did that to avoid any discussion or controversy over the division of expenses between the Kansas City Southern and its subsidiary company. The operating statistics of the Kansas City Southern are made including both the Texarkana and Fort Smith and the Kansas City Southern. From my experience on the Kansas City Southern and on the Texarkana and Fort Smith I would say that the expenses and operating costs on the Kansas City Southern, mile for mile, are greater than on the Texarkana and Forth Smith (Tr. 4890).

It will require investment of an unusual amount of additional capital to install improvements to make for further

reduction in our operating costs. A few methods in obtaining economies in operation are in specializing in organization, conducting campaigns to secure cooperation of [fol. 619] employees and efficiency in the various branches of service. We have a Safety Service Organization, composed of a Supervisor of Safety and assistants, Division Superintendents, Division Engineers and Master Mechanics, members of their staff and representative employees from different branches of the operating forces. Monthly open house meetings are held. Officers and employees of each department of the railroad are generally in attendance. Subjects for the good of the service and safety matters are discussed. Corrective measures are agreed upon and applied, if possible, by division officers, or are referred to the Management, if necessary. Formal reports of these meetings are made, each item kept track of and some definite final disposition ultimately made. The following figures show some of the results obtained: Year 1918, 626 injured and 10 killed; year 1922, 471 injured and 10 killed; year 1923, 460 injured and 7 killed; year 1924, 325 injured and 2 killed; year 1925, 219 injured and 1 killed (Tr. 4890-4891).

We have a Maintenance of Way Association, operated much along the same lines, except that its officers and members are from the Maintenance of Way Department. Their efforts are more given to determining ways and means for improvement in maintenance of way matters. Meetings are held monthly alternately on different divisions. Section foremen from the even numbered sections will attend the meetings for one period, and from the odd numbered sections the next. We have a Fuel Savers Department, an organization having regular monthly meetings and methods of procedure, the personnel of which is the General Superintendent of Transportation, Chairman of the General Committee, Fuel Agent, Superintendents, and supervisory forces of the Mechanical Department, local committees are composed of division officers, supervisors, and employees having to do with the handling and use of fuel (Tr. 4891-4892).

[fol. 620] We have a Mechanical Supervisors Association, composed of officers and supervisors of the Mechani-

cal Department and functions primarily to promote efficient and expeditious shop work. Each of the more important departments or branches of the service has an orderly method of establishing contact between men and supervisors, promoting cooperation, permitting the problems of both employees and supervisors to be viewed and discussed from various angles for the betterment of the service. Aside from these semi-official associations, we have departmental branches under the supervision of the head of a department, such as Freight Claim Prevention, headed by Chief of the Freight Claim Prevention Bureau, who reports to the Freight Claim Agent and is assisted by traveling claim prevention inspectors. The work is carried on directly in connection with the Freight Claim Department. For the year 1920 the ratio of freight claims paid per $100.00 freight and switch earnings was $1.55. For the year 1924 it was 67 cents and the indications are that the payment will be slightly less than 50 cents for the year 1925 (Tr. 4892).

Personnel Department, under the supervision of a Superintendent of Personnel, the organization consists of a Supervisor of Wages and Working Agreements, personnel supervisors and office forces. In this department are handled employees' insurance, pensions for retired employees, recreation, athletics and general welfare matters, as well as personal records. We have an arrangement with the Metropolitan Life Insurance Company whereby employees may avail themselves of group insurance at nominal cost after they have been in service six months. Pension allowance is made in some cases to worthy older employees who become incapacitated in service by reason of age or physi- [fol. 621] cal condition. A reasonable sum of money is allowed for recreation and athletics, all this to promote fellowship between employees. Grievances of employees are handled in this department, in conjunction with the heads of departments concerned. In this department there is a Fire Prevention Inspector who, with the cooperation of department heads, works to reduce the hazard of and loss from fire as much as possible (Tr. 4893).

We have a Fuel Department in charge of a Fuel Agent and such Fuel Inspectors as may be required. These men,

together with the Road Foreman of Engines, Traveling Engineers and Firemen, are engaged in the work of educating enginemen on fuel economy and in making tests to see that fuel purchased or to be purchased is of good grade. Fuel cost per 1,000 gross ton miles (coal and oil) based on consumption only, at prices paid in 1920, was 49.75 cents in 1924, compared with 53.34 cents in 1920, indicating more economical use of fuel.

The mechanical performance of our locomotives is shown by the following figures: Number of engine failures in 1909, 1269; in 1924, 353; miles per failure in 1909, 4211; in 1924, 13622. The distribution and assignment of power receives careful attention. Consulting engineers are employed who counsel our betterment programs and more important operating features. In the working out of our problems the purchase of large type locomotives for use in the heavy grade territory, the Ozark Mountain, south Missouri, Arkansas, and Oklahoma section, we have succeeded in eliminating some helper service and train mileage, thereby reducing the cost of operation; but the heavy grades and curvature that we have continues to cause operation to be more expensive than would be the case on a better grade line.

In addition there are constant campaigns being carried [fol. 622] on to promote economy and efficiency in various ways, such as the saving of material and avoiding waste; care and protection of perishable shipments enroute; prevention of rough handling of equipment; inspection of trains enroute by trainmen to prevent accidents; courtesy to the public, cooperation and many other situations as they come up from time to time (Tr. 4894).

The Port Arthur Canal & Dock Company own and operate a grain elevator at Port Arthur, Texas, capacity approximately 500,000 bushels, maintained ready to serve when needed. A large proportion of the year it is idle, being profitably used only during the period when grain is exported, and no grain for export has passed through the house from the 1925 crop (Tr. 4894-4895).

In my opinion, if the Kansas City Southern had not made the expenditures we have enumerated, looking toward efficient operation, it would probably have been in the red at

this time. We haven't much more than held our own compared with the earlier or better years of 1913, 1914 and 1915. The Kansas City Southern has not been able to earn 5.75 per cent return on its investment—not in the years 1923 or 1924. The return on investment for the year 1923 was 3.26 per cent and the year 1924, 3.44 per cent (Tr. 4895).

My recollection is that the railroad now known as the Kansas City Southern was built ready for operation approximately in 1897 (Tr. 4895).

Cross-examination:

Referring to Exhibit A-115, for example, the column Kansas City to Pittsburgh northbound, Note M indicates momentum grades. Referring to line 15 showing the maximum gradient compensated 1.10 per cent and right under it [fol. 623] ruling grade .5 per cent; the markings there indicate helper service for eleven miles in that territory. That brings it down to one half of one per cent. The fact that there is helper service on that momentum grade for eleven miles brings it down (Tr. 4895-4896). Referring to the northbound movement maximum grade 1.5 per cent the ruling grade is but .5 per cent. That means that the grade is compensated only to the extent that it is a 1.½ per cent grade. That would be true of the other situations (Tr. 4896).

When I referred to the high cost of terminals at Kansas City I meant the high cost of operating the Kansas City Southern terminals. We have recently had an increase in the charges for switching service performed within those terminals, not for the road haul service. The increase does not apply to our own road haul traffic (Tr. 4896-4897).

S. H. Bone was called as a witness and testified as follows:

Direct examination:

I am Assistant Auditor of the Freight Receipts for the Missouri Pacific Railroad Company and have spent about

thirty-five years in the Accounting Department of that railroad.

(Attorney Towner here conceded the witness' qualifications to talk accounting matters.) (Tr. 4897-4898.)

The freight traffic statistics of the Southwestern Lines cover the month of October, 1924. They are prepared in eight exhibits and are compiled according to states in Southwestern Line territory, the State of Texas being covered by two exhibits, Texas Common Points, and Texas Differential Territory. Each exhibit covers the freight traffic originating and terminating in each state in Southwestern Line and Western Trunk Line territory, also the freight traffic moving through the Western Trunk Line territory, both north and southbound, to and from each of [fol. 624] the Southwestern Line States. For example, the state of Arkansas is one Exhibit and contains statistical information on carload freight traffic of the various respondent lines in Southwestern Lines territory from Arkansas to Illinois, from Arkansas to Iowa, Arkansas to Michigan (N. P. of), Arkansas to Minnesota, Arkansas to Missouri, Arkansas to Wisconsin, Arkansas to through Western Trunk Line territory, and from Western Trunk Lines in Illinois to Arkansas, Iowa to Arkansas, Michigan (N. P. of) of Arkansas, Minnesota to Arkansas, Missouri to Arkansas, Wisconsin to Arkansas, through Western Trunk Line territory to Arkansas. I would like to submit our statement covering the state of Arkansas and distribute copies, in order that those present may follow my remarks, after which I will proceed to explain what the statement covers and how arranged (Tr. 4898-4899).

(The statement described by the witness was thereupon received in evidence as Exhibit A-116.)

[fol. 625] The cover of this exhibit speaks for itself. It shows the State of Arkansas on the outside. Form 3 up in the left hand corner directly under the cover, marked Form 3, covers the respondent roads, which is a grand recapitulation. This is the final recap. on the State of Arkansas and shows the following information in total: (a) number of cars, (b) Car miles—W. T. L.—S. W. L., (c) Tons, (d)

Tons one mile—W. T. L.—S. W. L., (e) Revenue in Dollars—W. T. L.—S. W. L., (f) Average haul—W. T. L.—S. W. L., (g) Average revenue per ton per mile (in mills), W. T. L.—S. W. L., (h) Average revenue per car mile (in cents), W. T. L.—S. W. L. From Arkansas to each of the states in W. T. L. Territory and from Arkansas through W. T. L. territory with a total of all. You will notice it shows Arkansas and Illinois, Iowa, Minnesota, Missouri, and on through, with the grand totals. Also the same information on traffic from each state in Western Trunk Line territory and through Western Trunk Line territory to the State of Arkansas, with the total of all. Also the grand totals of the traffic in both direction- to and from the State of Arkansas. That is the grand recapitulation which is the first sheet under the cover, marked Form 3. Form 2 is separated by a red insert and is directly under form 3. It is marked Form 2 in the upper left hand corner (Tr. 4899-4900).

Form 2 follows Form 3 and covers a summary of the freight traffic from the State of Arkansas to each Western Trunk Line state and through Western Trunk Line territory and from each state in Western Trunk Line territory, also through Western Trunk Line territory to the State of Arkansas showing the various statistical information described above. That refers to the number of gross car miles, tons etc., separated by commodities and junctions. On this sheet you will notice that it has the routes or junc- [fol. 626] tion points at which delivery is received from and delivered to the Western Trunk Line territory. Each sheet in the upper right hand corner tells you where the traffic is from and to, for example, the first sheet on Form 2 reads "Arkansas to Illinois." It starts out with routes via St. Louis. The first commodity on the sheet is apples (Tr. 4900). All the commodities are in alphabetical order, with the total of the cars on each route. Each sheet, if you turn them over you will find the next one is Arkansas to Illinois, 2 sheets of Arkansas to Illinois. The sheets are all numbered and in the heading if you will turn back to Form 2, the first sheet of Form 2, it starts out, it says Summary of Detail Sheet Numbers 1 to 5. Now that refers to Form 1, which I will explain. If you will turn then to

the next red insert which separates Form 2 and Form 1, marked Form 1 up in the upper left hand corner. Form 1 follows Form 2 and covers the same information described in Form 3 with this difference however. Form 1, in addition to showing commodities and junctions, also outlines the divisions used in dividing the revenue with the authorities for the divisions used. However, in some cases opposite the divisions used, the letters "D.D." or "N.D." are noted, which means the following: "D.D."—divisions in dispute; "N.D."—no divisions published (Tr. 4901).

By divisions in dispute I mean there is a dispute between the two territories. If divisions are in dispute I have divided the revenues upon the basis of settlement. This is what I told all the roads preparing statements, that where the divisions as settled were wrong and were not in dispute they would correct the settlements and place in the settlement the figures on the correct basis whether it was up or down, either way. If the divisions as settled were wrong but were in dispute, they would use the division on which the settlement was made. If they had no division, why they [fol. 627] would use the division upon which the settlement was made, that is if they could not find the division. Where the divisions are in dispute the statement shows the settlement as made by the carriers in the account. Where they are not in dispute the statement shows the settlement except that where the settlement is wrong it is corrected in the final figures. In the final analysis the statement reflects the division sheets which are not in dispute. I will say we discovered some errors when we started to make the settlement figures and put them in the column provided for it and then tried to work out the revenue for the year. We found some errors in extension which all had to be corrected. We do not show anywhere in the Exhibit who is disputing the divisions, whether it was a western trunk line or a southwestern road which divided the money. The delivering line always divides the money and the billing road is the one that accepts the delivering line's settlement. That is to the draft to the exchange of summaries at the end of the month. That would be true on through bills of commodities. I might say that between Western Trunk Lines and Southwestern Lines through billing is practically universally in effect. That means that pretty nearly all of the

traffic from the Southwestern lines to the Western Lines moves on through waybill, point of origin to destination. That is not true in all cases but in most cases. In fact, they are coming to that more and more every day (Tr. 4901-4902-4903).

Caption of Mileage.—In figuring the mileage for the Western Trunk Lines and Southwestern Line Roads we use for the Southwestern Line Roads their Official Distance Tables and for the Western Trunk Line Roads the Official Railway Guide figuring the distance of each movement via the shortest route via the line or lines handling the traffic. For example—The short line mileage on a shipment handled by the Missouri Pacific Railroad from Texarkana, Arkansas, [fol. 628] to East St. Louis, Illinois, is 498 miles, as per Missouri Pacific Railroad Official Distance Table No. 6. The actual movement of freight between these two stations is 526 miles. In compiling our statement we used 498 miles instead of 526 miles for the Southwestern Line Roads. In other words the ton miles is figures on the low mileage, the authorized mileage (Tr. 4904).

Territory Covered.—Traffic to and from the states named above, that refers to the states on the cover, the State of Missouri being divided between Western Trunk Line and Southwestern Line territory as follows: That portion on the north of the line of the Missouri Pacific Railroad St. Louis to Kansas City was considered Western Trunk Line territory. The portion of the state south thereof was considered Southwestern Line territory. The traffic moving through Western Trunk Line territory covered the following: points beyond Western Trunk Line territory east of the Illinois-Indiana state line, on and north of the Ohio River and of the line formed by the Chesapeake & Ohio, Norfolk & Western and Virginia Railways between Cincinnati and Norfolk, including the New England states, New York and the lower peninsula of Michigan. This statement covers only joint rates. Every combination rate was cut out of our statement (Tr. 4904-4905).

Caption, Gateways to and from Western Trunk Line Territory.—St. Louis, East St. Louis, Kansas City, Cairo, Gale and Thebes. On traffic routed via Omaha, Marshalltown, Des Moines, etc., the total revenue to Kansas City was used for account of the Western Trunk Line roads together with the mileage of the Western Trunk Line roads to Kan-

sas City. Caption, Traffic Through Western Trunk Line Territory: Kansas City, thence Mississippi River and other Illinois junctions northbound, and Illinois junctions and River crossings, thence Kansas City southbound. This [fol. 629] concludes the explanation of the Southwestern Lines statement covering the State of Arkansas. I have not included the traffic to and from North and South Dakota. That was purposely eliminated because those two states were not given me as being a part of the Western Trunk Line Territory. We only included the states that were furnished me by the Traffic Department. We have listed in the upper left hand corner on most of the sheets what we designate as respondent lines. Those are all of the respondent Southwestern Lines. Every road in Western Trunk Line territory was included in this statement, including any road over which it may have moved, whether parties to this case or not (Tr. 4905-4906-4907).

In ascertaining the tons one mile in Western Trunk Line territory we included every road in Western Trunk Line territory. By that I mean that as to every bit of traffic southbound from the territory east of the Western Trunk Lines that reached the Western Trunk Lines at Chicago, Springfield, Peoria, Joliet and other junctions we included the revenue of the Western Trunk Lines to the Missouri River. We included all the money that the Western Trunk Lines received out of handling the through traffic in the junction at which they received it. For example, if a shipment came from Springfield, was handled via Peoria, then C. & A. we will say for example, to some point on a Southwestern Line, we used the mileage and the revenue from Peoria to Kansas for the Western Trunk Lines. The total revenue of the Western Trunk Lines beyond Peoria was included. In fact, everything that is based on the division in the junction at which they received it or delivered it from the Missouri River to those points is included in these figures (Tr. 4908-4909).

I might say that in preparing the figures here the gross revenue for the Southwestern Lines is shown on the traffic [fol. 630] they received at East St. Louis from the Western Trunk Lines. That is, the Southwestern Lines pay a river transfer charge to the Terminal Railroad Association. That is not a good deal. But the total revenue from East St.

Louis is shown in these figures. We made no deduction for the river transfer in preparing this statement. I haven't shown any reduction from the Western Trunk Line revenue for absorptions at Chicago on the through traffic (Tr. 4909-4910).

Nowhere in the Exhibit are the points of origin or destination of the traffic shown. The information was consolidated and covered by states. The Statement there was prepared by all the respondent lines and was consolidated under my direction at St. Louis by the various St. Louis lines. In other words, we took the traffic from Texas and we let the M.-K.-T. consolidate that, all the Texas roads, both as to division, route, and then our statistical bureau went over the figures. Then I looked at them last before they went to the printer. You will note pretty nearly every statement here carries a correction. The reason for that is we refigured every one of the averages after they came back from the planographers to be sure there were not any errors. Now I am pretty sure that the statement is correct (Tr. 4910).

The Witness: The next statement covers the State of Louisiana. This Statement is compiled in same manner and form as the statement submitted for the State of Arkansas (Or Exhibit No. A-116). My remarks as to the State of Arkansas will apply to the State of Louisiana. I would, therefore, like to submit our statement covering the State of Louisiana (Tr. 4911).

(The statement described by the witness was thereupon received in evidence as Exhibit A-117).

[fol. 631] The next statement covers the State of Missouri. This Statement is compiled in same manner and form as the statement submitted for the State of Arkansas. My remarks as to the State of Arkansas will apply to the State of Missouri. I would, therefore, like to submit our statement covering the State of Missouri (Tr. 4911).

(The statement described by the witness was thereupon received in evidence as Exhibit A-118).

We have included all of the State of Minnesota. The cover shows that on each statement. Every statement is identically alike as to preparation (Tr. 4912).

The next statement covers the state of Oklahoma. This statement is compiled in same manner and form as the statement submitted for the State of Arkansas. My remarks as to the State of Arkansas will apply to the State of Oklahoma. I would, therefore, like to submit our statement covering the State of Oklahoma (Tr. 4912).

(The statement described by the witness was thereupon received in evidence as Exhibit A-119).

[fol. 632] In the case of anything that moves via Omaha we added the division between Omaha and Kansas City to the division taken to Omaha and put it in the statement as via Kansas City. Kansas City is the junction. Wherever the delivery was made at Omaha we added the division between Omaha and Kansas. We showed all of the tonnage and revenue north of Kansas as part of the Western Trunk Line service. That would be true of traffic taken to Omaha form southwestern points of origin by the Missouri Pacific and there delivered to the C. & N. W. at Omaha. We would break it at Kansas City and the division we received north of Kansas City to Omaha is added to the Northwestern division together with the miles for the Western Trunk Lines. Nothing is included in these statements with regard to traffic from the Southwest delivered to the Western Trunk Lines at St. Louis and moving thence to Chicago and there delivered to Eastern Lines. Nothing via St. Louis is included in that statement at all. That is on through traffic, but if it was hauled by a Southwestern Line to St. Louis and there delivered to the Alton for any destination in Western Trunk Line territory that is included; but not through traffic moving via St. Louis, only if it moves via Kansas City (Tr. 4912-4913-4914).

The next statement covers that portion of the State of Texas known as Texas Common Point Territory. This statement is compiled in same manner and form as the statement submitted for the State of Arkansas. My remarks as to the State of Arkansas will apply to that portion of the State of Texas known as Texas Common Point Territory. I would, therefore, like to submit our statement covering Texas Common Point Territory (Tr. 4914).

[fol. 633] (The statement described by the witness was thereupon received in evidence as Exhibit A-120.)

[fol. 634] The next statement covers that portion of the State of Texas known as Texas Differential Territory. This statement is compiled in same manner and form as the statement submitted for the State of Arkansas. My remarks as to the State of Arkansas will apply to that portion of the State of Texas known as Texas Differential Territory. I would, therefore, like to submit our statement covering Texas Differential Territory.

(The statement described by the witness was thereupon received in evidence as Exhibit A-121.)

[fol. 635] The next statement covers the movement of forest products, originating on Short Lines connecting with Southwestern respondent Lines for shipments having destination in Western Trunk Line Territory and Territory east thereof when moving through Western Trunk Line territory. I would like to submit statement and distribute copies, in order that those present may follow my remarks, after which I will proceed to explain what information the statement covers and how arranged.

(The statement described by the witness was thereupon received in evidence as Exhibit A-122.)

[fol. 636] The cover of the exhibit states what it covers. Form 5 Grand Recapitulation—first sheet under cover. This recap. shows the number of cars of Forest Products originating in the states of Arkansas, Louisiana, Missouri, Oklahoma and Texas to each of the states in Western Trunk Line territory and moving through Western Trunk Line territory to destinations east thereof, showing total movement from each state and a grand total of all states. Also —Car Miles—separated as between Western Trunk Lines and Southwestern Lines; Tons and Tone One Mile separated as between Western Trunk Lines and Southwestern Lines; Revenue in Dollars for Western Trunk Lines, Southwestern Lines and Southwestern Lines' Short Line connections; Average Haul—separated as between Western Trunk Lines and Southwestern Lines; Average Revenue per Ton per Mile (Mills) separated as between Western Trunk Lines and Southwestern Lines; Average Revenue Per Car Mile (Cents)—separated as between Western Trunk Lines and Southwestern Lines.

Form 4, separated by a red insert from Form 5, covers the same information as shown by Form 5 with the addition of the junctions at which the traffic was delivered to Western Trunk Lines and basis of divisions on which the revenue is divided and the authority for same, except where the letters "D. D." or "N. D." are noted. These letters indicate—"D. D.", divisions in dispute; "N. D.", no divisions published. This sheet also carries it by states, indicated in the right hand corner of each sheet as to where it is from and to, that is to states. That is all of this exhibit (Tr. 4915-4916).

The money shown in this Exhibit as accruing to the Southwestern Lines does not include the money paid to the tap lines. The Southwestern Lines' money is their net money. The tap lines' money is deducted because we paid [fol. 637] that out to the short line connections. It is an amount that we have to pay to those roads for hauling the traffic to the junction (Tr. 4917).

Here the Examiner asked whether the lines north of Kansas City and St. Louis join in a tap line allowance and Attorney Muckley replied that that would be covered later, that they did not.

Every waybill from Western Trunk Line territory that carries advances, we went to the waybill and found out where it originated, and if it originated in Western Trunk Line territory, that would mean that it was rebilled in transit at some point in Western Trunk Line territory. We reabstracted that shipment as from point of origin. If it originated east of the Western Trunk Line territory we took it out of the Western Trunk Line territory statement and put it in where it belonged. We have shown the subdivision of the Southwestern Lines' money as between ourselves and connecting carriers which originate traffic (Tr. 4917-4918).

These Exhibits do not include traffic moving from points west of Southwestern territory. They only cover shipments to the respondent roads in Western Trunk Line territory as shown in the upper left hand corner of the Exhibit. Traffic in Arizona and New Mexico was not involved in the statement (Tr. 4919).

The Examiner said that the reason for exclusion of points West of Southwestern territory which moved on transcontinental divisions, whereas traffic between Southwestern Territory and the territory east of Western Trunk Line territory does not move on transcontinental division and is involved in this case, at least so far as the proportions west of Chicago and St. Louis are concerned, and that he would like to know how much the statement would be changed if the tap line allowances were included in the Southwestern Lines' figures (Tr. 4919-4920).

[fol. 638] The Witness (continuing): I have a list of the tap lines, that is, the Short Line connections, if you would like to have them (Tr. 4920).

(The statement theretofore described by the witness was received in evidence as Exhibit A-123.)

[fol. 639] The Witness: Up in the upper right hand corner it might be well to place figures in there for it reads, this statement covers summary of exhibits from A-116 to A-122 inclusive. This is the grand recapitulation of a summary, that is Exhibit No. A-123.

Cross-examination:

The Texas Common Point Territory is covered by tariff. The points that take Texas Common Point rates are included in the Texas Common Point division. The points that take arbitraries or a differential over Texas Common Points are in the Texas Differential statement (Tr. 4921).

Objection was here made to the witness testifying further on this point for the reason that he was not a traffic witness.

The Oklahoma statement, Exhibit A-119, is for the period of October, 1924. The statement was made up from the accounts for that month, whatever the accounts reflected with the exception of where the divisions were in dispute. In such cases we took the settlement. Where they were not in dispute and were wrong we corrected them (Tr. 4922).

I have a list of the lumber originating roads, but I do not have that list here.

Mr. Dana here stated that the allowances to the Short Line connections referred to in Exhibit A-122 did not all represent divisions that were actually fixed by the Commission. There followed a discussion as to whether or not the allowances were made for the purpose of relieving the Southwestern Lines of transportation expense or of performing a transportation service. Attorney Muckley urged that it was an originating expense, but the Examiner said that it was a transportation expense, part of the line haul. [fol. 640] All I did was to take what somebody else made and put them together in my form (4923-4924).

H. W. Press was thereupon called as a witness and testified as follows:

Direct examination:

I am Assistant Comptroller of the St. Louis, San Francisco Railway, St. Louis.

(Attorney Towner here conceded the witness' qualifications.)

I have been in the Accounting and Statistical Department of that railroad for about twenty-four years, doing practically the same kind of work during all that period. I specialized in statistics and cost accounting (Tr. 4925).

The statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-124.

Exhibit A-124 was received in evidence, which said exhibit, omitting title page, is in words and figures as follows:

(Here follows Exhibit No. A-124, Press, side folios 641-696, inc.)

[fol. 641]

EXHIBIT A-124

Witness: Press

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31, 1916, 1917, 1921, 1922, 1923, 192

Carriers in Southwestern Territory

Year (1)	Average miles of road operated (2)	Net railway operating income (3)	Investment in road and equip. inc. material & supplies and cash (4)	Rate of return (5)	Net railway operating income per mile of road (6)	
Including A. T. & S. F. Ry. and C. R. I. & P. Ry. in Both Southwes						
1916	50,992.76	$136,218,088	$2,828,805,456	4.82%	$2,761	1916.
1917	51,024.05	152,760,765	2,940,676,640	5.19%	2,994	1917.
1921	51,127.03	128,737,736	3,233,904,546	3.98%	2,518	1921.
1922	51,037.91	114,387,110	3,263,218,992	3.51%	2,241	1922.
1923	50,963.94	130,175,510	3,362,148,262	3.87%	2,554	1923.
1924	51,036.30	151,580,221	3,480,105,170	4.36%	2,970	1924.
*1925	51,241.00	158,643,547	3,485,183,660	4.55%	3,096	*1925.
Average of 7 Years	51,060.43	138,928,997	3,227,720,389	4.30%	2,721	
Including A. T. & S. F. Ry. and C. R. I. & P. Ry. from Both Southw						
1916	34,743.88	$73,249,270	$1,819,168,367	4.03%	$2,108	1916.
1917	34,637.18	93,685,007	1,905,428,990	4.92%	2,705	1917.
1921	34,631.72	67,305,021	2,069,494,045	3.25%	1,943	1921.
1922	34,525.70	64,943,632	2,081,943,662	3.12%	1,881	1922.
1923	34,371.84	75,238,851	2,129,590,983	3.53%	2,189	1923.
1924	34,355.23	97,040,532	2,186,939,915	4.44%	2,825	1924.
*1925	34,485.86	97,110,809	2,192,018,405	4.43%	2,816	*1925.
Average of 7 Years	34,535.92	81,224,732	2,054,940,624	3.95%	2,352	A

* See Foot Notes on Page 9.

Operating Income per Mile of Road Operated for Class I Carriers in Southwestern and Western Trunk Line Territories, for the Years Ended December , 1921, 1922, 1923, 1924 and 1925

Carriers in Western Trunk Line Territory

Net railway operating income per mile of road (6)	Year (7)	Average miles of road operated (8)	Net railway operating income (9)	Investment in road and equip. inc. material & supplies and cash (10)	Rate of return (11)	Net railway operating income per mile of road (12)
Ry. in Both Southwestern Territory and Western Trunk Line Territory						
$2,761	1916	64,804.89	224,631,864	$3,910,146,345	4.74%	$3,466
2,994	1917	64,976.41	198,481,449	4,016,691,230	4.94%	3,055
2,518	1921	65,334.42	132,255,060	4,475,146,156	2.96%	2,024
2,241	1922	65,465.55	156,139,228	4,562,123,083	3.42%	2,385
2,554	1923	65,640.23	177,328,553	4,756,812,310	3.73%	2,702
2,970	1924	65,866.32	173,499,840	4,886,282,428	3.55%	2,634
3,096	*1925	66,199.47	190,541,655	4,886,282,428	3.90%	2,878
2,721	Average of 7 Years	65,469.61	178,982,521	4,499,069,140	3.98%	2,734
y. from Both Southwestern Territory and Western Trunk Line Territory						
$2,108	1916	48,556.01	$161,663,046	$2,900,509,256	5.57%	$3,329
2,705	1917	48,589.54	139,405,691	2,981,443,580	4.68%	2,869
1,943	1921	48,839.11	70,822,345	3,310,735,655	2.14%	1,450
1,881	1922	48,953.34	106,695,750	3,380,847,753	3.16%	2,180
2,189	1923	49,048.13	122,391,894	3,524,255,031	3.47%	2,495
2,825	1924	49,185.25	118,960,151	3,593,117,173	3.31%	2,419
2,816	*1925	49,444.33	129,008,917	3,593,117,173	3.59%	2,609
2,352	Average of 7 Years	48,945.10	121,278,256	3,326,289,374	3.65%	2,478

Net Railway Operating Income, Investment in Road and Equipment, Rate of Return and Net Railway Operating Income per Mile of Road

Carriers in Southwestern Territory

Road	Average miles of road operated	Net railway operating income	Investment in road and equip. inc. material & supplies and cash	Rate of return	Net railway operating income per mile of road
(1)	(2)	(3)	(4)	(5)	(6)
A. T. & S. F. (Inc. G. C. & S. F. & P. & S. F.)	11,244.40	$48,246,684	$745,457,153	6.47%	$4,291
C. R. I. & P. (Inc. C. R. I. & G.)	8,090.40	21,029,878	364,007,304	5.78%	2,599
F. W. & D. C.	454.14	2,380,123	26,072,388	9.13%	5,241
Ft. S. & W.	253.65	101,939	11,992,138	.85%	402
Gulf Coast Lines	897.64	1,633,577	36,172,044	4.68%	1,887
I. & G. N.	1,159.50	2,068,584	41,885,707	4.94%	1,784
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.87	90,789	29,158,036	.31%	123
K. C. S. (Inc. T. & Ft. S.)	842.73	3,832,408	99,945,742	3.83%	4,548
K. O. & G.	332.36	1,549	11,661,558	.01%	5
La. & Ark.	278.72	373,810	12,676,701	2.95%	1,341
L. Ry. & Nav. Co.	349.18	464,359	21,329,688	2.19%	1,330
Mid. Val.	383.02	545,801	19,019,356	2.87%	1,425
M. & N. A.	365.24	190,800	18,197,873	1.05%	522
M. K. & T. (Inc. M. K. T. of T.) and W. F. & N. W.	3,865.02	5,371,911	253,130,018	2.12%	1,390
Mo. Pac.	7,437.26	14,122,007	334,383,885	4.22%	1,899
S. T. L.-S. F. (Inc. S. T. L. S. F. & T.) and Ft. W. & R. G.	5,231.11	14,767,614	340,836,675	4.31%	2,806
S. T. L.-S. W. (Inc. S. T. L. S. W. of T.)	1,753.83	4,693,609	103,842,523	4.52%	2,676
S. A. & A. P.	732.65	613,497	25,159,898	2.44%	837
S. A. U. & G.	317.26	86,432	4,791,666	1.80%	272
Sou. Pac. (Tex. & La.)	3,534.70	10,188,173	187,807,563	5.42%	2,882
T. & P.	1,946.50	4,965,625	113,959,987	4.36%	2,551
T. & B. V.	357.21	347,555D	11,850,547	2.939D	973D
V. S. & P.	171.47	508,361	9,950,638	5.10%	2,965
Wich. Va. 1	256.90	319,013	5,606,368	5.69%	1,242
Total	50,992.76	$136,218,088	$2,828,805,456	4.82%	$2,671
Total Excl. A. T. & S. F. and C. R. I. & P.	34,743.88	73,249,270	$1,819,168,367	4.03%	$2,108

D—Denotes deficit.

ome per Mile of Road Operated, for Class I Carriers in Southwestern and Western Trunk Line Territories for the Year Ended December 31, 1916

Carriers in Western Trunk Line Territory

t railway perating come per le of road (6)	Road (7)	Average Miles of road operated (8)	Net railway operating income (9)	Investment in road and equip. inc. material & supplies and cash (10)	Rate of return (11)	Net railway operating income per mile of road (12)
$4,291	A. T. & S. F.	8,636.42	$43,065,118	$663,280,717	6.49%	$4,986
2,599	C. R. I. & P.	7,612.46	19,903,700	346,356,372	5.75%	2,615
5,241	C. & A.	1,052.65	4,017,508	131,075,178	3.06%	3,817
402	C. & E. I.	1,160.62	3,389,863	84,513,105	4.01%	2,921
1,887	C. & N. W.	8,423.55	27,986,193	412,305,805	6.79%	3,322
1,784	C. B. & Q.	9,370.39	38,482,078	488,606,878	7.88%	4,107
123	C. G. W.	1,490.22	3,789,584	172,982,835	2.19%	2,543
4,548	C. M. & St. P.	10,196.25	29,607,212	609,591,249	4.86%	2,904
5	C. St. P. M. & O.	1,752.81	5,860,986	81,615,789	7.18%	3,344
1,341	D. S. S. & A.	602.42	796,931	49,075,772	1.62%	1,323
1,330	E. J. & E.	797.36	3,261,581	49,514,943	6.59%	4,090
1,425	G. B. & W.	252.70	244,426	10,823,744	2.26%	967
522	I. C.	4,766.79	18,787,570	328,033,353	5.73%	3,941
1,390	L. S. & Ishpeming	34.04	216,176	4,242,702	5.10%	6,351
	M. & St. L.	1,646.75	2,912,154	61,804,529	4.71%	1,768
1,899						
2,806	M. St. P. & S. S. M.	4,228.11	13,702,019	200,866,917	6.82%	3,241
2,676	Q. O. & K. C.	262.29	78,407	6,428,077	1.22%	299
837	Wabash	2,519.06	8,530,358	209,028,380	4.08%	3,386
272						
2,882						
2,551						
973D						
2,965						
,242						
,671	Total	64,804.89	$224,631,864	$3,910,146,345	5.74%	$3,466
,108	Total Excl. A. T. & S. F. and C. R. I. & P.	48,556.01	$161,663,046	$2,900,509,256	5.57%	$3,329

Net Railway Operating Income, Investment in Road and Equipment, Rate of Return and Net Railway Operating Income per Mile of Road Operated

Carriers in Southwestern Territory

Road	Average miles of road operated	Net railway operating income	Investment in road and equip. inc. material & supplies and cash	Rate of return	Net railway operating income per mile of road
(1)	(2)	(3)	(4)	(5)	(6)
A. T. & S. F. (Inc. G. C. & S. F. & P. & S. F.)	11,269.32	$47,228,609	$761,246,364	6.20%	$4,191
C. R. I. & P. (Inc. C. R. I. & G.)	8,219.36	18,473,934	376,773,931	4.90%	2,248
Ft. W. & D. C.	454.14	2,347,002	27,987,432	8.39%	5,168
Ft. S. & W.	253.65	242,065	12,260,279	1.97%	954
Gulf Coast Lines	858.15	2,068,576	37,534,132	5.51%	2,411
I. & G. N.	1,159.50	3,253,235	43,463,896	7.48%	2,806
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.87	45,854D	29,332,968	.16%D	62D
K. C. S. (Inc. T. & Ft. S.)	861.73	4,433,557	100,473,177	4.41%	5,145
K. O. & G.	332.00	9,980	12,020,561	.08%	30
La. and Ark.	302.34	363,885	12,870,500	2.83%	1,204
La. Ry. & Nav. Co.	352.37	518,338	21,427,919	2.42%	1,471
Mid. Val.	383.66	765,679	19,404,595	3.95%	1,996
M. & N. A.	365.24	217,179	18,327,352	1.18%	595
M. K. & T. (Inc. M. K. & T. of T. and W. F. & N. W.)	3,866.31	8,039,634	260,792,836	8.08%	2,079
Mo. Pac.	7,325.41	19,992,832	366,193,773	5.46%	2,729
S. T. L.-S. F. (Inc. S. T. L. S. F. & T.) and Ft. W. & R. G.)	5,181.17	16,098,394	367,303,189	4.38%	3,107
S. T. L.-S. W. (Inc. S. T. L. S. W. of T.)	1,753.50	6,253,097	105,558,173	5.92%	3,566
S. A. & A. P.	726.25	610,422	25,485,214	2.40%	841
S. A. U. & G.	317.26	170,692	4,992,195	3.42%	538
Sou. Pac. (Tex. & La.)	3,561.15	15,266,174	192,250,443	7.94%	4,287
T. & P.	1,946.50	5,702,229	117,383,905	4.86%	2,929
T. & B. V.	368.80	206,849D	11,713,195	1.77%D	561D
V. S. & P.	171.47	693,401	10,348,545	6.70%	4,044
Wich. Val.	256.90	264,554	5,532,066	4.78%	1,030
Total	51,024.05	$152,760,765	$2,940,676,640	5.19%	$2,994
Total Excl. A. T. & S. F. and C. R. I. & P.	34,637.18	93,685,007	$1,905,428,990	4.92%	$2,705

D—Denotes deficit.

ile of Road Operated for Class I Carriers in Southwestern and Western Trunk Line Territories for the Year Ended December 31, 1917

Carriers in Western Trunk Line Territory

railway erating me per of road	Road	Average Miles of road operated	Net railway operating income	Investment in road and equip. inc. material & supplies and cash	Rate of return	Net railway operating income per mile of road
(6)	(7)	(8)	(9)	(10)	(11)	(12)
4,191	A. T. & S. F.	8,642.32	$41,842,418	$676,326,093	6.19%	$4,842
2,248	C. R. I. & P.	7,744.55	17,233,340	358,921,557	4.80%	2,225
5,168	C. & A.	1,052.65	3,606,134	135,464,144	2.66%	3,426
954	C. & E. I.	1,131.39	4,408,032	88,572,625	4.98%	3,896
2,411	C. & N. W.	8,423.80	24,192,566	430,039,693	5.63%	2,871
2,806	C. B. & Q.	9,373.38	34,748,472	507,210,271	6.85%	3,707
62D	C. G. W.	1,496.06	2,816,212	173,079,067	1.63%	1,882
5,145	C. M. & St. P.	10,256.53	20,148,335	624,441,944	3.22%	1,964
30	C. St. P. M. & O.	1,749.33	4,219,231	83,304,680	5.06%	2,411
1,204	D. S. S. & A.	600.82	535,776	49,687,814	1.07%	892
1,471	E. J. & E.	802.99	2,433,632	47,190,564	5.16%	3,031
1,996	G. B. & W.	253.80	196,545	10,877,503	1.81%	774
595	I. C.	4,766.04	21,510,760	344,933,816	6.24%	4,513
2,079	L. S. & Ishpeming	34.04	195,328	4,212,322	4.64%	5,738
	M. & St. L.	1,646.75	2,570,879	64,274,576	4.00%	1,561
2,729						
1,107	M. St. P. & S. S. M.	4,227.81	10,461,807	200,436,552	5.22%	2,475
1,566	Q. O. & K. C.	255.09	6,409D	6,438,274	.10%D	25D
841	Wabash	2,519.06	7,368,391	211,279,735	3.48%	2,925
538						
1,287						
1,929						
561D						
1,044						
1,030						
994	Total	64,976.41	$198,481,449	$4,016,691,230	4.94%	$3,055
705	Total Excl. A. T. & S. F. and C. R. I. & P.	48,589.54	$139,405,691	$2,981,443,580	4.68%	$2,869

Net Railway Operating Income, Investment in Road and Equipment, Rate of Return and Net Railway Operating Income per Mile of Road Opera

Carriers in Southwestern Territory

Road	Average miles of road operated	Net railway operating income	Investment in road and equip. inc. material & supplies and cash	Rate of return	Net railway operating income per mile of road
(1)	(2)	(3)	(4)	(5)	(6)
A. T. & S. F. (Inc. G. C. & S. F. & P. & S. F.)	11,599.03	$54,451,069	$867,856,376	6.27%	$4,694
C. R. I. & P. (Inc. C. R. I. & G.)	8,122.83	16,444,952	413,591,116	3.98%	2,025
Ft. W. & D. C.	454.14	3,457,113	32,050,153	10.79%	7,612
Ft. S. & W.	249.75	74,194D	12,832,046	.58%D	297D
Gulf Coast Lines	860.19	2,070,006	39,490,006	5.24%	2,406
I. & G. N.	1,159.50	97,596	45,892,599	.21%	84
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.95	806,740D	30,221,737	2.67%D	1,093D
K. C. S. (Inc. T. & Ft. S.)	863.15	4,287,174	106,596,212	4.02%	4,967
K. O. & G.	317.29	7,449D	13,711,656	.05%D	23D
La. & Ark.	302.34	349,144	13,545,270	2.58%	1,155
La. Ry. & N. Co.	343.67	128,026	22,578,866	.57%	373
Mid. Val.	365.88	929,725	20,673,160	4.50%	2,541
M. & N. A.	364.57	536,737D	18,448,911	2.91D	1,472D
M. K. & T. (Inc. M. K. & T. of T. and W. F. & N. W.).	3,783.69	8,780,927	281,399,308	3.12%	2,321
Mo. Pac.	7,300.36	10,236,848	395,440,931	2.59%	1,402
S. T. L.-S. F. (Inc. S. T. L. S. F. & T. and Ft. W. & R. G.).	5,130.58	17,736,424	399,751,464	4.44%	3,457
S. T. L. S. W. (Inc. S. T. L. S. W. of T.)	1,775.98	4,758,760	117,194,881	4.06%	2,680
S. A. & A. P.	739.36	71,657	25,922,744	.28%	97
S. A. U. & G.	317.26	60,737	5,136,076	1.18%	191
Sou. Pac. (Tex. & La.)	3,592.27	1,308,133	209,513,118	1.10%	643
T. & P.	1,951.14	2,832,149	133,480,001	2.12%	1,452
T. & B. V.	368.80	288,065	11,803,260	2.44%	781
V. S. & P.	171.44	459,498	10,648,528	4.32%	2,683
Wich. Val.	255.86	414,403	6,126,127	6.76%	1,620
Total	51,127.03	$128,737,736	$3,233,904,546	3.98%	$2,518
Total Excl. A. T. & S. F. and C. R. I. & P.	34,631.72	$67,305,021	$2,069,494,045	3.25%	$1,943

D—Denotes deficit.

Mile of Road Operated, for Class I Carriers in Southwestern and Western Trunk Line Territories for the Year Ended December 31, 1921

Carriers in Western Trunk Line Territory

Net railway operating income per mile of road (6)	Road (7)	Average Miles of road operated (8)	Net railway operating income (9)	Investment in road and equip. inc. material & supplies and cash (10)	Rate of return (11)	Net railway operating income per mile of road (12)
$4,694	A. T. & S. F.	8,833.70	$46,234,261	$769,800,427	6.01%	$5,234
2,025	C. R. I. & P.	7,661.61	15,198,454	394,610,074	3.85%	1,984
7,612	C. & A.	1,050.51	1,862,675	146,280,522	1.27%	1,773
297D	C. & E. I.	1,130.81	2,153,582	89,745,222	2.39%	1,904
2,406	C. & N. W.	8,402.28	6,651,137	490,226,677	1.36%	792
84	C. B. & Q.	9,393.07	29,145,005	556,704,559	5.24%	3,103
1,093D	C. G. W.	1,496.06	309,989	170,783,535	.18%	207
4,967	C. M. & St. P.	10,808.63	5,117,329	697,569,989	.73%	473
23D	C. St. P. M. & O.	1,749.19	2,065,350	90,170,200	2.29%	1,181
1,155	D. S. S. & A.	591.80	594,527D	49,670,339	1.20%D	1,005D
373	E. J. & E.	456.59	3,334,952	58,425,825	5.71%	7,304
2,541	G. B. & W.	252.39	192,660	11,230,566	1.72%	763
1,472D	I. C.	4,799.37	17,542,228	424,339,786	4.13%	3,655
2,321	L. S. & Ishpeming	33.43	202,407D	4,723,627	4.28%D	6,055D
	M. & St. L.	1,651.01	273,291	67,033,431	.41%	166
1,402						
3,457	M. St. P. & S. S. M.	4,298.09	696,585D	216,261,454	.32%D	162D
2,680	Q. O. & K. C.	252.92	195,673D	6,329,830	3.09%D	774D
97	Wabash	2,472.96	3,863,339	231,240,103	1.67%	1,562
191						
643						
1,452						
781						
2,683						
1,620						
2,518	Total	65,334.42	$132,255,060	$4,475,146,156	2.96%	$2,024
1,943	Total Excl. A. T. & S. F. and C. R. I. & P.	48,839.11	$70,822,345	$3,310,735,655	2.14%	$1,450

Net Railway Operating Income, Investment in Road and Equipment, Rate of Return and Net Railway Operating Income per Mile of

Carriers in Southwestern Territory

Road	Average miles of road operated	Net railway operating income	Investment in road and equip. inc. material & supplies and cash	Rate of return	Net ry. operating income per mile of road
(1)	(2)	(3)	(4)	(5)	(6)
A. T. & S. F. (Inc. G. C. & S. F. & P. & S. F.)	11,622.74	$39,938,082	$888,328,694	4.50%	$3,436
C. R. I. & P. (Inc. C. R. I. & G.)	8,116.23	14,656,570	410,768,075	3.57%	1,806
Ft. W. & D. C.	456.31	2,438,054	32,924,601	7.40%	5,343
Ft. S. & W.	249.75	169,531	12,846,591	1.32%	679
Gulf Coast Lines	860.19	2,751,057	40,135,831	6.85%	3,198
I. & G. N.	1,159.50	1,318,388	43,718,594	3.02%	1,137
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.95	474,893D	29,831,081	1.59%D	644D
K. C. S. (Inc. T. & Ft. S.)	862.93	3,398,855	108,483,762	3.13%	3,939
K. O. & G.	314.45	526,254	18,761,377	2.80%	1,674
La. & Ark.	302.25	695,547	13,809,043	5.04%	2,301
La. Ry. & N. Co.	343.67	88,637	22,979,065	.39%	258
Mid. Val.	365.45	1,100,049	20,732,672	5.31%	3,010
M. & N. A.	323.29	82,378	4,081,720	2.02%	255
M. K. & T. (Inc. M. K. & T. of T. and W. F. & N. W.)	3,737.46	10,395,020	283,104,451	3.67%	2,781
Mo. Pac.	7,261.78	8,247,035	402,240,929	2.05%	1,136
St. L.-S. F. (Inc. S. T. L. S. F. & T. and Ft. W. & R. G.)	5,130.54	15,248,527	403,540,585	3.78%	2,972
St. L.-S. W. (Inc. S. T. L. S. W. of T.)	1,775.98	4,386,825	119,268,516	3.68%	2,470
S. A. & A. P.	739.36	253,430	26,577,129	.95%	343
S. A. U. & G.	317.26	7,269	5,906,481	.12%	23
Sou. Pac. (Tex. & La.)	3,610.98	4,935,506	209,995,014	2.35%	1,367
T. & P.	1,952.74	3,629,472	136,241,892	2.66%	1,859
T. & B. V.	368.89	13,858D	12,031,536	.12%D	38D
V. S. & P.	171.44	368,823	10,864,250	3.39%	2,151
Wich. Val.	256.77	240,552	6,047,103	3.98%	937
Total	51,037.91	$114,387,110	$3,263,218,992	3.51%	$2,241
Total Excl. A. T. & S. F. and C. R. I. & P.	34,525.70	$64,943,632	$2,081,943,662	3.12%	$1,881

D—Denotes deficit.

g Income per Mile of Road, for Class I Carriers in Southwestern and Western Trunk Line Territories for the Year Ended December 31, 1922

Carriers in Western Trunk Line Territory

Net ry. operating ncome per ile of road (6)	Road (7)	Average Miles of road operated (8)	Net railway operating income (9)	Investment in road and equip. inc. material & supplies and cash (10)	Rate of return (11)	Net railway operating income per mile of road (12)
$3,436	A. T. & S. F.	8,857.21	$35,509,009	$789,712,994	4.50%	$4,009
1,806	C. R. I. & P.	7,655.00	13,934,469	391,562,336	3.56%	1,820
5,343	C. & A.	1,050.51	1,532,188	148,346,953	1.03%	1,459
679	C. & E. I.	945.13	2,721,469	86,928,932	3.13%	2,879
3,198	C. & N. W.	8,403.82	17,036,305	491,509,790	3.47%	2,027
1,137	C. B. & Q.	9,393.69	25,152,174	590,890,781	4.26%	2,678
644D	C. G. W.	1,496.06	265,187	170,411,060	.16%	177
3,939	C. M. & St. P.	11,029.86	13,284,245	717,686,935	1.85%	1,204
1,674	C. St. P. M. & O.	1,749.19	3,812,671	92,812,032	4.11%	2,180
2,301	D. S. S. & A.	591.30	86,963	49,808,453	.17%	147
258	E. J. & E.	459.22	5,152,091	52,223,041	9.87%	11,219
3,010	G. B. & W.	257.46	159,402	11,207,814	1.42%	619
255	I. C.	4,784.52	25,121,128	443,054,986	5.67%	5,250
2,781	L. S. & Ishpeming	33.43	370,053	4,834,670	7.65%	11,069
	M. & St. L.	1,649.90	883,800	66,837,863	1.32%	536
1,136						
2,972	M. St. P. & S. S. M.	4,383.57	7,178,972	216,827,157	3.31%	1,638
2,470	Q. O. & K. C.	252.72	168,319D	6,403,466	2.63%D	666D
343	Wabash	2,472.96	4,107,421	232,063,820	1.77%	1,661
23						
1,367						
1,859						
38D						
2,151						
937						
$2,241	Total	65,465.55	$156,139,228	$4,562,123,083	3.42%	$2,385
$1,881	Total Excl. A. T. & S. F. and C. R. I. & P.	48,953.34	$106,695,750	$3,380,847,753	3.16%	$2,180

Net Railway Operating Income, Investment in Road and Equipment, Rate of Return and Net Railway Operating Income per Mile of Ro

Carriers in Southwestern Territory

Road	Average miles of road operated	Net railway operating income	Investment in road and equip. inc. material & supplies and cash	Rate of return	Net railway operating income per mile of road
(1)	(2)	(3)	(4)	(5)	(6)
A. T. & S. F. (Inc. G. C. & S. F. & P. S. F.)	11,724.23	$46,036,391	$925,805,514	4.97%	$3,927
C. R. I. & P. (Inc. C. R. I. & G.)	8,096.36	14,841,165	423,840,041	3.50%	1,833
Ft. W. & D. C.	456.31	3,877,039	33,347,986	8.63%	6,305
Ft. S. & W.	249.75	66,418	7,255,874	.92%	266
Gulf Coast Lines	860.19	3,444,112	40,422,337	8.52%	4,004
I. & G. N.	1,159.50	2,176,504	45,707,569	4.76%	1,877
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.95	20,100D	29,897,251	.07%D	27D
K. C. S. (Inc. T. & Ft. S.)	848.68	3,537,100	111,138,841	3.18%	4,168
K. O. & G.	314.42	245,275	18,731,839	1.31%	780
La. & Ark.	302.25	850,188	14,641,657	5.81%	2,813
L. Ry. & N. Co. (Inc. L. R. & N. Co. of T.)	549.75	170,210	26,655,944	.64%	310
Mid. Val.	365.31	1,136,677	21,254,409	5.35%	3,112
M. & N. A.	364.57	112,799	4,107,202	2.75%	309
M. K. & T. (Inc. M. K. & T. of T.) and W. F. & N. W.	3,359.76	8,809,589	280,959,482	3.14%	2,622
Mo. Pac.	7,235.72	8,893,245	415,497,923	2.14%	1,229
St. L.-S. F. (Inc. S. T. L. S. F. & T. and Ft. W. & R. G.)	5,120.84	18,479,385	419,768,911	4.40%	3,609
St. L. S. W. (Inc. S. T. L. S. W. of T.)	1,775.85	5,564,801	123,241,029	4.52%	3,134
S. A. & A. P.	739.36	849,287	27,178,865	3.12%	1,149
S. A. U. & G.	317.26	117,264	6,004,560	1.95%	370
Sou. Pac. (Tex. & La.)	3,610.98	5,250,119	216,060,753	2.43%	1,454
T. & P.	1,952.74	5,237,535	139,831,606	3.75%	2,682
T. & B. V.	368.89	411,569	13,028,198	3.16%	1,116
V. S. & P.	184.21	690,832	11,207,466	6.16%	3,750
Wich. Val.	269.06	398,106	6,563,005	6.07%	1,480
Total	50,963.94	$130,175,510	$3,362,148,262	3.87%	$2,554
Total Excl. A. T. & S. F. and C. R. I. & P.	34,371.84	$75,238,851	$2,129,590,983	3.53%	$2,189

D—Denotes deficit.

come per Mile of Road Operated for Class I Carriers in Southwestern and Western Trunk Line Territories for the Year Ended December 31, 1923

Carriers in Western Trunk Line Territory

Net railway operating income per mile of road	Road	Average Miles of road operated	Net railway operating income	Investment in road and equip. inc. material & supplies and cash	Rate of return	Net railway operating income per mile of road
(6)	(7)	(8)	(9)	(10)	(11)	(12)
$3,927	A. T. & S. F.	8,956.97	$40,815,194	$828,194,908	4.93%	$4,557
1,833	C. R. I. & P.	7,635.13	14,121,465	404,362,371	3.49%	1,850
6,305	C. & A.	1,050.40	5,319,568	153,533,836	3.46%	5,064
266	C. & E. I.	945.13	3,324,116	90,481,188	3.67%	3,517
4,004	C. & N. W.	8,462.53	15,843,375	521,721,659	3.04%	1,872
1,877	C. B. & Q.	9,401.41	25,365,567	598,511,395	4.24%	2,998
27D	C. G. W.	1,496.06	2,118,672	173,023,321	1.22%	1,416
4,168	C. M. & St. P.	11,010.74	20,167,713	738,221,916	2.73%	1,832
780	C. St. P. M. & O.	1,749.19	3,028,915	91,325,691	3.32%	1,732
2,813	D. S. S. & A.	591.30	606,570	50,060,832	1.21%	1,026
310	E. J. & E.	459.72	5,409,365	56,707,381	9.54%	11,767
3,112	G. B. W.	234.15	121,487	11,337,359	1.07%	519
309	I. C.	4,840.25	22,906,244	499,589,370	4.59%	4,732
2,622	L. S. & Ishpeming	33.43	389,889	5,049,639	7.72%	11,663
	M. & St. L.	1,649.90	825,341	67,397,629	1.22%	500
1,229						
3,609	M. St. P. & S. S. M.	4,396.49	8,204,096	218,611,832	3.75%	1,866
3,134	Q. O. & K. C.	250.84	180,299D	6,499,366	2.77%D	719D
1,149	Wabash	2,476.59	8,941,275	242,182,617	3.69%	3,610
370						
1,454						
2,682						
1,116						
3,750						
1,480						
2,554	Total	65,640.23	$177,328,553	$4,756,812,310	3.73%	$2,702
2,189	Total Excl. A. T. & S. F. and C. R. I. & P.	49,048.13	$122,391,894	$3,524,255,031	3.47%	$2,495

Net Railway Operating Income, Investment in Road and Equipment, Rate of Return and Net Railway Operating Income per Mile of R

Carriers in Southwestern Territory

Road	Average miles of road operated	Net railway operating income	Investment in road and equip. inc. material & supplies and cash	Rate of return	Net railway operating income per mile of road
(1)	(2)	(3)	(4)	(5)	(6)
A. T. & S. F. (Inc. G. C. & S. F. & P. S. F.)	11,836.98	$47,283,279	$983,607,130	4.81%	$3,995
C. R. I. & P. (Inc. C. R. I. & G.)	8,072.69	17,713,589	429,395,568	4.13%	2,194
Ft. W. & D. C.	456.64	3,832,662	36,438,431	10.52%	8,393
Ft. S. & W.	249.75	252,843	7,307,863	3.46%	1,012
Gulf Coast Lines	860.19	3,955,601	40,880,656	9.68%	4,599
I. G. N.	1,159.50	2,572,290	49,518,052	5.19%	2,218
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.95	142,202	30,430,263	.47%	193
K. C. S. (Inc. T. & F. T. S.)	854.09	3,864,376	112,129,052	3.45%	4,525
K. . & G.	314.42	32,292	19,267,943	.17%	103
La. & Ark.	302.25	602,473	14,838,553	4.06%	1,993
L. Ry. & N. Co. (Inc. L. R. & N. of T)	544.71	305,001D	26,830,542	1.14%D	560D
Mid. Val.	364.90	1,150,881	21,552,536	5.34%	3,154
M. & N. A.	364.57	62,733	4,262,557	1.47%	172
M. K. & T. (Inc. K. & T. of T.) and W. F. & N. W.	3,193.14	12,587,498	283,637,547	4.44%	3,942
Mo. Pac.	7,359.97	15,817,584	435,286,582	3.63%	2,149
St. L. S. F. (Inc. St. L. S. F. & T.) and Ft. W. & R. G.	5,132.24	20,824,430	424,285,036	4.91%	4,058
St. L. S. W. (Inc. St. L. S. W. of T.)	1,777.01	4,686,370	127,290,945	3.68%	2,637
S. A. & A. P.	739.36	758,461	28,013,836	2.71%	1,026
S. A. U. & G.	317.26	140,761	6,163,490	2.28%	444
Sou. Pac. (Tex. & La.)	3,616.67	8,814,784	222,183,405	3.97%	2,437
T. & P.	1,952.74	5,801,611	145,266,900	3.99%	2,971
T. & B. V.	368.89	99,706D	12,780,393	.78%D	270D
V. S. & P.	188.46	480,047	12,008,608	4.00%	2,547
Wich. Val.	271.92	608,161	6,729,282	9.04%	2,237
Total	51,036.30	$151,580,221	$3,480,105,170	4.36%	$2,970
Total Excl. A. T. & S. F. and C. R. I. & P.	34,355.23	$97,040,532	$2,186,939,915	4.44%	$2,825

D—Denotes deficit.

come per Mile of Road Operated for Class I Carriers in Southwestern and Western Trunk Line Territories for the Year Ended December 31, 1924

Carriers in Western Trunk Line Territory

Net railway operating income per mile of road (6)	Road (7)	Average Miles of road operated (8)	Net railway operating income (9)	Investment in road and equip. inc. material & supplies and cash (10)	Rate of return (11)	Net railway operating income per mile of road (12)
$3,995	A. T. & S. F.	9,069.61	$38,348,299	$883,720,830	4.34%	$4,228
2,194	C. R. I. & P.	7,611.46	16,191,390	409,444,425	3.95%	2,127
8,393	C. & A.	1,050.86	4,394,793	158,372,764	2.77%	4,182
1,012	C. & E. I.	945.13	1,467,259	90,598,937	1.62%	1,552
4,599	C. & N. W.	8,462.83	16,784,051	520,202,466	3.23%	1,983
2,218	C. B. & Q.	9,407.23	28,742,112	611,038,510	4.70%	3,055
193	C. G. W.	1,496.06	2,234,046	174,147,937	1.28%	1,493
4,525	C. F. St. P.	10,986.92	18,972,106	742,082,556	2.56%	1,727
103	C. St. P. M. & O.	1,749.19	3,408,989	91,467,875	3.73%	1,949
1,993	D. S. S. & A.	591.30	445,046	50,441,133	.88%	753
560D	E. J. & E.	459.77	3,311,421	58,753,474	5.64%	7,202
3,154	G. B. & W.	234.15	191,772	11,412,781	1.68%	819
172	I. C.	4,849.74	23,761,649	527,534,762	4.50%	4,900
3,942	L. S. & Ishpeming	161.51	251,166	8,036,393	3.13%	1,555
2,149	M. & St. L.	1,647.26	959,951D	67,626,166	1.42D	583D
4,058	M. St. P. S. S. M.	4,402.53	6,776,158	222,809,034	3.04%	1,539
2,637	Q. O. & K. C.	250.84	168,246D	6,461,201	2.60%D	671D
1,026	Wabash	2,489.93	9,347,780	252,131,184	3.71%	3,754
444						
2,437						
2,971						
270D						
2,547						
2,237						
$2,970	Total	65,866.32	$173,499,840	$4,886,282,428	3.55%	$2,634
$2,825	Total Excl. A. T. & S. F. and C. R. I. & P.	49,185.25	$118,960,151	$3,593,117,173	3.31%	$2,419

Net Railway Operating Income, Investment in Road and Equipment, Rate of Return and Net Railway Operating Income per Mile of R

Carriers in Southwestern Territory

Road	Average miles of road operated (°)	Net railway operating income (*)	Investment in road and equip. inc. material & supplies and cash (xx)	Rate of return	Net railway operating income per mile of road	
(1)	(2)	(3)	(4)	(5)	(6)	
A. T. & S. F. (Inc. G. C. & S. F. & P. & S. F.)	11,952.84	$52,957,078	$983,607,130	5.38%	$4,431	A. T
C. R. I. & P. (Inc. C. R. I. & G.)	8,029.54	17,214,819	429,395,568	4.01%	2,144	C. I
Ft. W. & D. C.	474.87	3,349,949	36,438,431	9.19%	7,054	C. &
Ft. S. & W.	249.75	297,432	7,307,863	4.07%	1,191	C. &
Gulf Coast Lines	860.19	4,001,373	40,880,656	9.79%	4,652	C. &
I. & G. N.	1,159.50	2,273,491	49,518,052	4.59%	1,961	C. I
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.95	299,273	30,430,263	.98%	406	C.
K. C. S. (In . T. & Ft. S.)	858.12	4,505,536	112,129,052	4.02%	5,250	C. I
K. O. & G.	314.42	15,644D	19,267,943	.08%D	50D	C.
La. & Ark.	302.25	831,940	14,838,553	5.61%	2,752	D.
L. Ry. & N. Co. (Inc. L. Ry. & N. Co. of T.)	543.71	14,683D	26,830,542	.05%D	27D	E.
Mid. Val.	364.04	1,213,412	21,552,536	5.63%	3,333	G.
M. & N. A.	364.57	3,363	4,262,557	.08%	9	I. C
M.-K.-T. (Inc. M.-K.-T. of T. and W. F. & N. W.)	3,188.54	12,614,638	283,637,547	4.45%	3,956	L.
						M.
Mo. Pac.	7,337.61	17,955,938	435,286,582	4.13%	2,447	
St. L.-S. F. (Inc. L. S. F. & T. and Ft. W. & R. G.)	5,281.30	21,912,745	429,363,526	5.10%	4,149	M.
St. L. S. W. (Inc. St. L. S. W. of T.)	1,750.44	4,502,192	127,290,945	3.54%	2,572	Q.
S. A. & A. P.	Included with Sou. Pac.					W.
S. A. U. & G.	318.32	168,439	6,163,490	2.73%	529	
Sou. Pac. (Tex. & La.)	4,371.69	8,189,469	250,197,241	3.27%	1,873	
T. & P.	1,952.91	5,730,516	145,266,900	3.94%	2,934	
T. & B. V.	368.12	425,535D	12,780,393	3.33%D	1,156D	
V. S. & P.	188.46	602,065	12,008,608	5.01%	3,195	
Wich. Val.	271.86	475.741	6,729,282	7.07%	1,750	
Total	51,241.00	$158,643,547	$3,485,183,660	4.55%	$3,096	
Total Excl. A. T. & S. F. and C. R. I. & P.	34,485.86	$97,110,809	$2,192,018,405	4.43%	$2,816	

D—Denotes Deficit.

(°)—Average of eleven months ended November 30, 1925.

(*)—December 1925 estimated on basis of considering one-eleventh of the Net Railway Operating Income for the eleven months ended November 30, 1925, as representative of that for December 1925.

(xx)—As of beginning of year.

e per Mile of Road Operated, for Class I Carriers in Southwestern and Western Trunk Line Territories for the Year Ended December 31, 1925

Carriers in Western Trunk Line Territory

ailway ating ne per f road	Road	Average Miles of road operated (°)	Net railway operating income (*)	Investment in road and equip. inc. material & supplies and cash (xx)	Rate of return	Net railway operating income per mile of road
(6)	(7)	(8)	(9)	(10)	(11)	(12)
431	A. T. & S. F.	9,185.51	$45,461,964	$883,720,830	5.14%	$4,949
144	C. R. I. & P.	7,569.63	16,070,774	409,444,425	3.93%	2,123
054	C. & A.	1,055.92	4,527,862	158,372,764	2.86%	4,288
191	C. & E. I.	945.13	1,933,539	90,598,937	2.13%	2,046
652	C. & N. W.	8,461.56	21,550,480	520,202,466	4.14%	2,547
961	C. B. & Q.	9,398.10	28,138,843	611,038,510	4.61%	2,994
406	C. G. W.	1,496.06	2,003,776	174,147,937	1.15%	1,339
250	C. M. & St. P.	11,204.93	15,918,947	742,082,556	2.15%	1,421
50D	C. St. P. M. & O.	1,749.19	3,166,636	91,467,875	3.46%	1,810
752	D. S. S. & A.	590.91	691,034	50,441,133	1.37%	1,169
27D	E. J. & E.	459.79	4,255,143	58,753,474	7.24%	9,255
333	G. B. & W.	234.15	258,327	11,412,781	2.26%	1,103
9	I. C.	4,874.99	24,913,612	527,534,762	4.72%	5,110
956	L. S. & Ishpeming	161.51	738,604	8,036,393	9.19%	4,573
	M. & St. L.	1,635.41	243,532	67,626,166	.36%	149
447						
149	M. St. P. & S. S. M.	4,401.64	9,131,785	222,809,034	4.10%	2,075
572	Q. O. & K. C.	250.84	172,283D	6,461,201	2.67%D	687D
	Wabash	2,524.20	11,709,035	252,131,184	4.64%	4,639
529						
873						
934						
156D						
195						
750						
096	Total	66,199.47	$190,541,655	$4,886,282,428	3.90%	$2,878
	Total, Excl. A. T. & S. F. and C. R. I. & P.	49,444.33	$129,008,917	$3,593,117,173	3.59%	$2,609
816						

Novem-

Summary Comparing Capital Stock Outstanding, Dividends Declared, Percent of Dividends to Capital Stock and Dividends Per Mile of Road Operated 1922, 1923 and 192

Year	Average miles of road operated	Capital stock outstanding	Dividends declared	Percent of dividends to capital stock	Dividends per mile of road	
(1)	(2)	(3)	(4)	(5)	(6)	
Including A. T. & S. F. Ry. and C. R. I. & P. Ry. in Both Southw						
1916	50,992.76	$969,214,651	$21,527,927	2.22%	$422	191
1917	51,024.05	1,107,419,576	26,846,625	2.42%	526	191
1921	51,127.03	1,113,873,545	26,540,718	2.38%	519	192
1922	51,037.91	1,112,865,045	27,436,489	2.47%	538	192
1923	50,963.94	1,141,908,788	28,973,358	2.54%	569	192
1924	51,036.30	1,165,273,353	34,537,419	2.96%	677	192
Average of 6 years	51,030.33	$1,101,759,160	$27,643,756	2.51%	$542	
Excluding A. T. & S. F. Ry. and C. R. I. & P. Ry. from Both Southw						
1916	34,743.88	$553,980,928	$2,505,492	.45%	$72	191
1917	34,637.18	633,885,693	2,371,763	.37%	68	191
1921	34,631.72	635,261,833	3,245,918	.51%	94	192
1922	34,525.70	632,599,833	4,054,809	.64%	117	192
1923	34,371.84	656,284,576	5,289,293	.81%	154	192
1924	34,355.23	679,659,041	10,236,000	1.51%	298	192
Average of 6 years	34,544.26	$631,945,317	$4,617,212	.73%	$134	

Mile of Road Operated, for Class I Railways in Southwestern and Western Trunk Line Territories, for the Years Ended December 31, 1916, 1917, 1921, 1922, 1923 and 1924

vidends per ile of road	Year	Average miles of road operated	Capital stock outstanding	Dividends declared	Percent of dividends to capital stock	Dividends per mile of road
(6)	(7)	(8)	(9)	(10)	(11)	(12)
y. in Both Southwestern Territory and Western Trunk Line Territory						
$422	1916	64,804.89	$1,449,663,325	$68,190,317	4.70%	$1,052
526	1917	64,976.41	1,522,942,542	84,705,868	5.56%	1,304
519	1921	65,334.42	1,581,169,194	89,584,398	5.67%	1,371
538	1922	65,465.55	1,620,262,982	61,143,745	3.77%	934
569	1923	65,640.23	1,646,772,807	59,989,461	3.64%	914
677	1924	65,866.32	1,658,216,315	59,321,019	3.58%	901
$542	Average of 6 years	65,347.97	$1,579,837,861	$70,489,135	4.46%	$1,079
s from Both Southwestern Territory and Western Trunk Line Territory						
$72	1916	48,556.01	$1,034,429,602	$49,167,882	4.75%	$1,013
68	1917	48,589.54	1,049,408,659	60,231,006	5.74%	1,240
94	1921	48,839.11	1,102,557,482	66,289,598	6.01%	1,357
117	1922	48,953.34	1,139,997,770	37,762,065	3.31%	771
154	1923	49,048.13	1,161,148,595	36,305,396	3.13%	740
298	1924	49,185.25	1,172,602,003	35,019,600	2.99%	712
134	Average of 6 years	48,861.90	$1,110,024,019	$47,462,591	4.28%	$971

Capital Stock Outstanding, Dividends Declared, Percent of Dividends to Capital Stock and Dividends per Mile of Road Operated

Carriers in Southwestern Territory

Road	Average miles of road operated	Capital stock outstanding	Dividends declared	Percent of dividends to capital stock	Dividends Per mile of road
(1)	(2)	(3)	(4)	(5)	(6)
A. T. & S. F. (Inc. G. C. & S. F. & P. & S. F)	11,244.40	$345,915,700	$19,022,435	5.50%	$1,692
C. R. I. & P. (Inc. C. R. I. & G.)	8,090.40	74,951,523	.....	.....	.....
Ft. W. & D. C.	454.14	9,243,800	639,152	6.91%	1,407
Ft. S. & W.	253.65	5,000,000	.....	.....	.....
Gulf Coast Lines	897.64	15,585,000	.....	.....	.....
I. & G. N.	1,159.50	4,822,000	.....	.....	.....
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.87	46,000,000	.....	.....	.....
K. C. S. (Inc. T. & Ft. S.)	842.73	51,059,900	840,000	1.65%	997
K. O. & G.	332.36	8,474,000	.....	.....	.....
La. & Ark	278.72	5,000,000	.....	.....	.....
L. Ry. & N. Co.	349.18	8,131,000	.....	.....	.....
Mid. Val.	383.02	8,013,000	.....	.....	.....
M. & N. A.	365.24	8,340,000	.....	.....	.....
M. K. T. (Inc. M. K. T. of T. & W. F. & N. W.)	3,865.02	86,435,757	.....	.....	.....
Mo. Pac.	7,437.26	82,841,085	.....	.....	.....
S. T. L. S. F. (Inc. S. T. L. S. F. & T. & F. T. W. & R. G.)	5,231.11	61,679,326	.....	.....	.....
S. T. L. S. W. (Inc. S. T. L. S. W. of T.)	1,753.83	38,999,750	.....	.....	.....
S. A. & A. P.	732.65	1,000,000	.....	.....	.....
S. A. U. & G.	317.26	280,000	.....	.....	.....
Sou. Pac. (Tex. & La.)	3,534.70	62,364,400	919,200	1.47%	260
T. & P.	1,946.50	38,755,110	.....	.....	.....
T. & B. V.	357.21	304,000	.....	.....	.....
V. S. & P.	171.47	4,999,300	107,140	2.14%	625
Wichita Val.	256.90	1,020,000	.....	.....	.....
Total	50,992.76	$969,214,651	$21,527,927	2.22%	$422
Total excl. A. T. & S. F. & C. R. I. & P.	34,743.88	$553,980,928	$2,505,492	.45%	$72

ile of Road Operated for Class I Railways in Southwestern and Western Trunk Line Territories, for the Year Ended December 31, 1916

Carriers in Western Trunk Line Territory

Dividends Per mile of road (6)	Road (7)	Average mile of road operated (8)	Capital stock outstanding (9)	Dividends declared (10)	Percent of dividends to capital stock (11)	Dividends per mile of road (12)
$1,692	A. T. & S. F.	8,636.42	$340,751,200	$19,022,435	5.58%	$2,203
.....	C. R. I. & P.	7,612.46	74,482,523	.....	.....	.....
1,407	C. & A.	1,052.65	39,955,500	.....	.....	.....
.....	C. & E. I.	1,160.62	18,302,752	.....	.....	.....
.....	C. & N. W.	8,423.55	152,606,807	10,899,615	7.14%	1,294
.....	C. B. & Q.	9,370.39	110,839,100	8,867,128	8.00%	946
.....	C. G. W.	1,490.22	89,137,115	877,358	.98%	589
997	C. M. St. P.	10,196.25	233,287,984	13,979,506	5.99%	1,371
.....	C. St. P. M. & O.	1,752.81	29,818,946	2,093,529	7.02%	1,194
.....	D. S. S. & A.	602.42	22,000,000	.....	.....	.....
.....	E. J. & E.	797.36	10,000,000	400,000	4.00%	502
.....	G. B. & W.	252.70	10,100,000	198,750	1.97%	787
.....	I. C. S.	4,766.79	109,281,822	8,743,282	8.00%	1,834
.....	L. S. & Ishpeming	34.04	1,000,000	.....	.....	.....
.....	M. & St. L.	1,646.75	25,792,600	.....	.....	.....
.....	M. St. P. & S. S. M.	4,228.11	37,822,536	2,646,714	7.00%	625
.....	Q. O. & K. C.	262.29	6,000,000	.....	.....	.....
.....	Wabash	2,519,06	138,484,440	462,000	.33%	183
.....						
260						
.....						
.....						
625						
.....						
$422	Total	64,804.89	$1,449,663,325	$68,190,317	4.70%	$1,052
$72	Total excl. A. T. S. F. & C. R. I. & P.	48,556.01	$1,034,429,602	$49,167,882	4.75%	$1,013

Capital Stock Outstanding, Dividends Declared, Percent of Dividends to Capital Stock and Dividends per Mile of Road Operated

Carriers in Southwestern Territory

Road	Average miles of road operated	Capital stock outstanding	Dividends declared	Percent of dividends to capital stock	Dividends per mile of road
(1)	(2)	(3)	(4)	(5)	(6)
A. T. & S. F. (Inc. G. C. & S. F. & P. &. S. F.)	11,269.32	$357,907,200	$22,695,088	6.34%	$2,014
C. R. I. & P. (Inc. C. R. I. & G.)	8,219.36	129,373,683	1,779,774	1.38%	217
Ft. W. & D. C.	454.14	9,243,800	639,152	6.91%	1,407
Ft. S. & W.	253.65	5,000,000	.....	.....	.....
Gulf Coast Lines	858.15	15,585,000	.....	.....	.....
I. & G. N.	1,159.50	4,882,000	.....	.....	.....
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.87	46,000,000	.....	.....	.....
K. C. S. (Inc. T. & Ft. S.)	861.73	51,059,900	840,000	1.65%	975
K. O. & G.	332.00	8,474,000	.....	.....	.....
La. & Ark.	302.34	5,000,000	.....	.....	.....
L. Ry. & N. Co.	352.37	8,131,000	.....	.....	.....
Mid. Val.	383.66	8,005,750	.....	.....	.....
M. & N. A.	365.24	8,340,000	.....	.....	.....
M. K. T. (Inc. M. K. T. of T. & W. F. & N. W.)	3,866.31	86,435,757	.....	.....	.....
Mo. Pac.	7,325.41	154,639,600	.....	.....	.....
St. L.-S. F. (Inc. St. L.-S. F. & T. & Ft. W. & R. G.)	5,181.17	61,679.326	.....	.....	.....
St. L. S. W. (Inc. St. L. S. W. of T.)	1,753.50	38,999,750	.....	.....	.....
S. A. & A. P.	726.25	1,000,000	.....	.....	.....
S. A. U. & G.	317.26	280,000	.....	.....	.....
Sou. Pac. (Tex. & La.)	3,561.15	62,364,400	619,200	.99%	174
T. & P.	1,946.50	38,755,110	.....	.....	.....
T. & B. V.	368.80	304,000	.....	.....	.....
V. S. & P.	171.47	4,999,300	171,411	3.43%	1,000
Wich. Val.	256.00	1,020,000	102,000	10.00%	397
Total	51,024.05	$1,107,419,576	$26,846,625	2.42%	$526
Total excl. A. T. & S. F. & C. R. I. & P.	34,637.18	$633,885,693	$2,371,763	.37%	$68

ile of Road Operated for Class I Railways in Southwestern and Western Trunk Line Territories, for the Year Ended December 31, 1917

Carriers in Western Trunk Line Territory

Dividends per mile of road	Road	Average miles of road operated	Capital stock outstanding	Dividends declared	Percent of dividends to capital stock	Dividends per mile of road
(6)	(7)	(8)	(9)	(10)	(11)	(12)
$2,014	A. T. & S. F.	8,642.32	$344,629,200	$22,695,088	6.59%	$2,626
217	C. R. I. & P.	7,744.55	128,904,683	1,779,774	1.38%	230
1,407	C. & A.	1,052.65	39,955,500	.....	.....	.....
.....	C. & E. I.	1,131.39	18,282,452	.....	.....	.....
.....	C. & N. W.	8,423.80	167,648,497	11,688,967	6.97%	1,388
.....	C. B. & Q.	9,373.38	110,839,100	19,951,038	18.00%	2,128
.....	C. G. W.	1,496.06	89,137,115	439,266	.49%	294
975	C. M. & St. P.	10,256.53	233,287,984	13,392,476	5.74%	1,306
.....	C. St. P. M. & O.	1,749.33	29,818,946	1,715,986	5.75%	981
.....	D. S. S. & A.	600.82	22,000,000	.....	.....	.....
.....	E. J. & E.	802.99	10,000,000	400,000	4.00%	498
.....	G. B. & W.	253.80	10,100,000	225,000	2.23%	886
.....	I. C.	4,766.04	109,291,392	7,923,559	7.25%	1,663
.....	L. S. & Ishpeming	34.04	1,000,000	.....	.....	.....
.....	M. & St. L.	1,646.75	25,792,600	.....	.....	.....
.....	M. St. P. & S. S. M.	4,227.81	37,822,536	2,646,714	7.00%	626
.....	Q. O. & K. C.	255.09	6,000,000	.....	.....	.....
.....	Wabash	2,519.06	138,432,537	1,848,000	1.33%	734
.....						
174						
.....						
.....						
1,000						
397						
$526	Total	64,976.41	$1,522,942,542	$84,705,868	5.56%	$1,304
$68	Total excl. A. T. & S. F. & C. R. I. & P.	48,589.54	1,049,408,659	60,231,006	5.74%	$1,240

Capital Stock Outstanding, Dividends Declared, Percent of Dividends to Capital Stock and Dividends per Mile of Road Operated

Carriers in Southwestern Territory

Road	Average miles of road operated	Capital stock outstanding	Dividends declared	Percent of dividends to capital stock	Dividends Per mile of road
(1)	(2)	(3)	(4)	(5)	(6)
A. T. & S. F. (Inc. G. C. & S. F. & P. & S. F.)	11,599.03	$362,849,200	$19,727,105	5.44%	$1,701
C. R. I. & P. (Inc. C. R. I. & G.)	8,122.83	129,509,512	3,567,695	2.75%	439
Ft. W. & D. C.	454.14	9,243,800	916,466	9.91%	2,018
Ft. S. & W.	249.75	5,000,000	.....	.....	.....
Gulf Coast Lines	860.19	15,585,000	816,682	5.24%	949
I. & G. N.	1,159.50	4,822,000	.....	.....	.....
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.95	46,000,000	.....	.....	.....
K. C. S. (Inc. T. & Ft. S.)	863.15	51,059,900	840,000	1.65%	973
K. O. & G.	317.29	9,850,140	.....	.....	.....
La. & Ark.	302.34	5,000,000	.....	.....	.....
L. Ry. & N. Co.	343.67	8,131,100	.....	.....	.....
Mid. Val.	365.88	8,005,750	.....	.....	.....
M. & N. A.	364.57	8,340,000	.....	.....	.....
M. K. T. (Inc. M. K. T. of T. & W. F. & N. W.)	3,783.69	86,435,757	.....	.....	.....
Mo. Pac.	7,300.36	154,639,600	.....	.....	.....
St. L. S. F. (Inc. St. L.-S. F. & T. & Ft. W. & R. G.)	5,130.58	61,679,326	.....	.....	.....
St. L. S. W. (Inc. St. L. S. W. of T.)	1,775.98	38,999,750	.....	.....	.....
S. A. & A. P.	739.36	1,000,000	.....	.....	.....
S. A. U. & G.	317.26	280,000	.....	.....	.....
Sou. Pac. (Tex. & La.)	3,592.27	62,364,400	619,200	.99%	172
T. & P.	1,951.14	38,755,110	.....	.....	.....
T. & B. V.	368.00	304,000	.....	.....	.....
V. S. & P.	171.44	4,999,300	53,570	1.07%	312
Wich. Val.	255.66	1,020,000	.....	.....	.....
Total	51,127.03	$1,113,873,545	$26,540,718	2.38%	$519
Total Excl. A. T. & S. F. & C. R. I. & P.	34,631.72	635,261,833	3,245,918	.51%	94

Mile of Road Operated for Class I Railways in Southwestern and Western Trunk Line Territories, for the year Ended December 31, 1921

Carriers in Western Trunk Line Territory

Dividends Per mile of road (6)	Road (7)	Average mile of road operated (8)	Capital stock outstanding (9)	Dividends declared (10)	Percent of dividends to capital stock (11)	Dividends per mile of road (12)
$1,701	A. T. & S. F.	8,833.70	$349,571,200	$19,727,105	5.64%	$2,233
439	C. R. I. & P.	7,661.61	129,040,512	3,567,695	2.76%	466
2,018	C. & A.	1,050.51	39,955,500	.....	.....	.....
.....	C. & E. I.	1,130.81	19,380,452	.....	.....	.....
949	C. & N. W.	8,402.28	167,606,682	8,825,275	5.27%	1,050
.....	C. B. & Q.	9,393.07	170,839,100	44,925,917	26.30%	4,783
.....	C. G. W.	1,496.06	89,137,115	.....	.....	.....
973	C. M. & St. P.	10,808.63	233,287,984	.....	.....	.....
.....	C. St. P. M. & O.	1,749.19	29,818,946	1,715,986	5.75%	981
.....	D. S. S. & A.	591.80	22,000,000	.....	.....	.....
.....	E. J. & E.	456.59	10,000,000	400,000	4.00%	876
.....	G. B. & W.	252.39	2,500,000	125,000	5.00%	495
.....	I. C.	4,799.37	109,295,867	7,650,706	7.00%	1,594
.....	L. S. & Ishpeming	33.43	1,000,000	.....	.....	.....
.....	M. & St. L.	1,651.01	25,792,600	.....	.....	.....
.....	M. St. P. & S. S. M.	4,298.09	37,822,536	2,646,714	7.00%	616
.....	Q. O. & K. C.	252.92	6,000,000	.....	.....	.....
.....	Wabash	2,472.96	138,120,700	.....	.....	.....
.....						
172						
.....						
.....						
312						
.....						
$519	Total	65,334.42	$1,581,169,194	$89,584,398	5.67%	$1,371
94	Total Excl. A. T. & S. F. & C. R. I. & P.	48,839.11	1,102,557,482	66,289,598	6.01%	1,357

Capital Stock Outstanding, Dividends Declared, Percent of Dividends to Capital Stock and Dividends per Mile of Road Opera

Carriers in Southwestern Territory

Road	Average miles of road operated	Capital stock outstanding	Dividends declared	Percent of dividends to capital stock	Dividends per mile of road
(1)	(2)	(3)	(4)	(5)	(6)
A. T. & S. F. (Inc. G. C. & S. F. & P. & S. F.)	11,622.74	$364,504,200	$19,814,345	5.44%	$1,705
C. R. I. & P. (Inc. C. R. I. & G.)	8,116.23	129,508,012	3,567,335	2.75%	440
Ft. W. & D. C.	456.31	9,243,800	916,466	9.91%	2,008
Ft. S. & W	249.75	5,000,000	.....	.....	.....
Gulf Coast Lines	860.19	15,585,000	889,862	5.71%	1,034
I. & G. N.	1,159.50	7,500,000	.....	.....	.....
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.95	46,000,000	.....	.....	.....
K. C. S. (Inc. T. & Ft. S.)	862.93	51,059,900	840,000	1.65%	973
K. O. & G.	314.45	9,850,140	.....	.....	.....
La. & Ark.	302.25	5,000,000	.....	.....	.....
L. Ry. & N. Co.	343.67	8,131,000	.....	.....	.....
Mid. Val.	365.45	8,005,750	.....	.....	.....
M. & N. A.	323.29	3,000,000	.....	.....	.....
M. K. T. (Inc. M. K. T. of T. & W. F. & N. W.)	3,737.46	86,435,757	.....	.....	.....
Mo. Pac.	7,261.78	154,639,600	.....	.....	.....
St. L. S. F. (Inc. St. L. S. F. & T. & Ft. W. & R. G.)	5,130.54	61,679,326	.....	.....	.....
St. L. S. W. (Inc. St. L. S. W. of T.)	1,775.98	38,999,750	497,341	1.28%	280
S. A. & A. P.	739.36	1,000,000	.....	.....	.....
S. A. U. & G.	317.26	280,000	.....	.....	.....
Sou. Pac. (Tex. & La.)	3,610.98	62,364,400	600,000	.96%	166
T. & P.	1,952.74	38,755,110	.....	.....	.....
T. & B. V.	368.89	304,000	.....	.....	.....
V. S. & P.	171.44	4,999,300	107,140	2.14%	625
Wich. Val.	256.77	1,020,000	204,000	20.00%	794
Total	51,037.91	$1,112,865,045	$27,436,489	2.47%	$538
Total Excl. A. T. & S F. & C. R I. & P.	34,525.70	632,599.833	4,054,809	.64%	117

ile of Road Operated for Class I Railways in Southwestern and Western Trunk Line Territories, for the year Ended December 31, 1922

Carriers in Western Trunk Line Territory

Dividends per mile of road (6)	Road (7)	Average miles of road operated (8)	Capital stock outstanding (9)	Dividends declared (10)	Percent of dividends to capital stock (11)	Dividends per mile of road (12)
$1,705	A. T. & S. F.	8,857.21	$351,226,200	$19,814,345	5.64%	$2,237
440	C. R. I. & P.	7,655.00	129,039,012	3,567,335	2.76%	466
2,008	C. & A.	1,050.51	39,955,500	.....	.....	.....
....	C. & E. I.	945.13	45,891,400	.....	.....	.....
1,034	C. & N. W.	8,403.82	167,606,422	8,825,275	5.27%	1,050
....	C. B. & Q.	9,393.69	170,839,100	17,083,700	10.00%	1,819
....	C. G. W.	1,496.06	89,137,115	.....	.....	.....
973	C. M. & St. P.	11,029.86	233,287,984	.....	.....	.....
....	C. St. P M. & O.	1,749.19	29,818,946	1,715,986	5.75%	981
....	D. S. S. & A.	591.30	22,000,000	.....	.....	.....
....	E. J. & E.	459.22	10,000,000	400,000	4.00%	871
....	G. B. & W.	257.46	2,500,000	125,000	5.00%	486
....	I. C.	4,784.52	120,225,467	8,099,696	6.74%	1,693
....	L. S. & Ishpeming	33.43	1,000,000	.....	.....	.....
....	M. & St. L.	1,649.90	25,792,600	.....	.....	.....
....	M. St. P. & S. S. M.	4,383.57	37,822,536	1,512,408	4.00%	345
280	Q. O. & K. C.	252.72	6,000,000	.....	.....	.....
....	Wabash	2,472.96	138,120,700	.....	.....	.....
....						
166						
....						
....						
625						
794						
538	Total	65,465.55	$1,620,262,982	$61,143,745	3.77%	$934
117	Total Excl. A. T. & S. F. & C. R. I. & P.	48,953.34	1,139,997,770	37,762,065	3 31%	771

Capital Stock Outstanding, Dividends Declared, Percent of Dividends to Capital Stock and Dividends per Mile of Road Operated

Carriers in Southwestern Territory

Road	Average miles of road operated	Capital stock outstanding	Dividends declared	Percent of dividends to capital stock	Dividends per mile of road
(1)	(2)	(3)	(4)	(5)	(6)
A. T. & S. F. (Inc. G. C. & S. F. & P. &. S. F.)	11,724.23	$369,870,200	$20,117,930	5.44%	$1,716
C. R. I. & P. (Inc. C. R. I. & G.)	8,096.36	129,501,012	3,566,135	2.75%	440
Ft. W. & D. C.	456.31	9,243,800	1,378,656	14.91%	3,021
Ft. S. & W.	249.75	1,248,000	.....	.....	.....
Gulf Coast Lines	860.19	15,585,000	1,038,198	6.66%	1,207
I. & G. N.	1,159.50	7,500,000	.....	.....	.....
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.95	46,000,000	.....	.....	.....
K. C. S. (Inc. T. & Ft. S.)	848.68	51,059,900	840,000	1.65%	990
K. O. & G.	314.42	9,850,140	.....	.....	.....
La. & Ark.	302.25	5,000,000	.....	.....	.....
L. A. Ry. & N. Co. (Inc. L. Ry. & N. Co. of T.)	549.75	8,183,500	.....	.....	.....
Mid. Val.	365.31	8,005,750	199,633	2.49%	546
M. & N. A.	364.57	3,000,000	.....	.....	.....
M. K. T. (Inc. M. K. T. of T. & W. F. & N. W.)	3,359.76	113,820,000	.....	.....	.....
Mo. Pac.	7,235.72	154,639,600	.....	.....	.....
St. L. S. F. (Inc. St. L. F. & T. & F. T. & R. G.)	5,120.84	61,679,326	.....	.....	.....
St. L. S. W. (Inc. St. L. S. W. of T.)	1,775.85	38,999,750	994,683	2.55%	560
S. A. & A. P.	739.36	1,000,000	.....	.....	.....
S. A. U. & G.	317.26	280,000	.....	.....	.....
Sou. Pac. (Tex. & La.)	3,610.98	62,364,400	504,000	.81%	140
T. & P.	1,952.74	38,755,110	.....	.....	.....
T. & B. V.	368.89	304,000	.....	.....	.....
V. S. & P.	184.21	4,999,300	232,123	4.64%	1,260
Wich. Val.	269.06	1,020,000	102,000	10.00%	379
Total	50,963.94	$1,141,908,788	$28,973,358	2.54%	$569
Total Excl. A. T. & S. F. & C. R. I. & P.	34,371.84	$656,284,576	$5,289,293	.81%	$154

ile of Road Operated for Class I Railways in Southwestern and Western Trunk Line Territories, for the year Ended December 31, 1923

Carriers in Western Trunk Line Territory

Dividends per mile of road (6)	Road (7)	Average miles of road operated (8)	Capital stock outstanding (9)	Dividends declared (10)	Percent of dividends to capital stock (11)	Dividends per mile of road (12)
$1,716	A. T. & S. F.	8,956.97	$356,592,200	$20,117,930	5.64%	$2,246
440	C. R. I. & P.	7,635.13	129,032,012	3,565,135	2.76%	467
3,021	C. & A.	1,050.40	39,955,500	.....	.....	.....
.....	C. & E. I.	945.13	45,891,400	.....	.....	.....
1,207	C. & N. W.	8,462.53	167,606,122	7,373,750	4.40%	871
.....	C. B. & Q.	9,401.41	170,839,100	17,083,735	10.00%	1,817
.....	C. G. W.	1,496.06	92,002,515	.....	.....	.....
990	C. M. & St. P.	11,010.74	233,287,984	.....	.....	.....
.....	C. St. P. M. & O.	1,749.19	29,818,946	1,252,069	4.20%	716
.....	D. S. S. & A.	591.30	22,000,000	.....	.....	.....
.....						
546	E. J. & E.	459.72	10,000,000	600,000	6.00%	1,305
....	G. B. & W.	234.15	10,100,000	125,000	1.24%	534
....	I. C.	4,840.25	130,911,192	8,308,434	6.35%	1,717
....	L. S. & Ishpeming	33.43	1,000,000	50,000	5.00%	1,496
	M. & St. L.	1,649.90	25,792,600	.....	.....	.....
....						
560	M. St. P. & S. S. M.	4,396.49	37,822,536	1,512,408	4.00%	344
....	Q. O. & K. C.	250.84	6,000,000	.....	.....	.....
....	Wabash	2,476.59	138,120,700	.....	.....	.....
140						
....						
....						
,260						
379						
$569	Total	65,640.23	$1,646,772,807	$59,989,461	3.64%	$914
$154	Total Excl. A. T. & S. F. & C. R. I. & P.	49,048.13	$1,161,148,595	$36,305,396	3.13%	$740

Capital Stock Outstanding, Dividends Declared, Percent of Dividends to Capital Stock and Dividends per Mile of Road Operated by Carriers in Southwestern Territory

Road	Average miles of road operated	Capital stock outstanding	Dividends declared	Percent of dividends to capital stock	Dividends per mile of road
(1)	(2)	(3)	(4)	(5)	(6)
A. T. & S. F (Inc. G. C. & S. F. & P. & S. F.)	11,836.98	$369,860,300	$20,734,234	5.61%	$1,752
C. R. I. & P. (Inc. C. R. I. & G.)	8,072.69	129,501,012	3,567,185	2.75%	442
Ft. W. & D. C.	456.64	9,243,800	1,378,656	14.91%	3,019
Ft. S. & W.	249.75	1,248,000	.....	.....	.....
Gulf Coast Lines	860.19	15,585,000	4,276,612	27.44%	4,972
I. & G. N.	1,159.50	7,500,000	.....	.....	.....
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.95	46,000,000	.....	.....	.....
K. C. S. (Inc. T. & Ft. S.)	854.09	51,059,900	840,000	1.65%	984
K. O. G.	314.42	9,521,605	.....	.....	.....
L. A. & Ark.	302.25	5,000,000	.....	.....	.....
L. Ry. & N. Co. (Inc. L. Ry. & N. Co. of T.)	544.71	8,183,500	.....	.....	.....
Mid. Val.	364.90	8,005,750	199,962	2.50%	548
M. & N. A.	364.57	3,000,000	.....	.....	.....
M. K. T. (Inc. M. K. T. of T. & W. F. & N. W.)	3,193.14	113,820,000	306,261	.27%	96
Mo. Pac.	7,359.97	154,639,600	.....	.....	.....
St. L. S. F. (Inc. St. L. S. F. & T. & Ft. W. & R. G.)	5,132.24	61,679,326	104,628	.17%	20
St. L. S. W. (Inc. St. L. S. W. of T.)	1,777.01	38,999,750	994,683	2.55%	560
S. A. & A. P.	739.36	1,000,000	.....	.....	.....
S. A. U. & G.	317.26	280,000	.....	.....	.....
Sou. Pac. (Tex. & La.)	3,616.67	62,364,400	1,104,000	1.77%	305
T. & P.	1,952.74	62,458,110	707,798	1.13%	362
T. & B. V.	368.89	304,000	.....	.....	.....
V. S. & P.	188.46	4,999,300	221,400	4.43%	1,175
Wich. Val.	271.92	1,020,000	102,000	10.00%	375
Total	51,036.30	$1,165,273,353	$34,537,419	2.96%	$677
Total Excl. A. T. & S. F. & C. R. I. & P.	34,355.23	$679,659,041	$10,236,000	1.51%	$298

of Road Operated for Class I Railways in Southwestern and Western Trunk Line Territories for the Year Ended December 31, 1924

Carriers in Western Trunk Line Territory

idends per ile of road	Road	Average mile of road operated	Capital stock outstanding	Dividends declared	Percent of dividends to capital stock	Dividends per mile of road
(6)	(7)	(8)	(9)	(10)	(11)	(12)
,752	A. T. & S. F.	9,069.61	$356,582,300	$20,734,234	5.81%	$2,286
442	C. R. I. & P.	7,641.46	129,032,012	3,567,185	2.76%	469
,019	C. & A.	1,050.86	39,955,500	.....	.....	.....
.....	C. & E. I.	945.13	45,891,400	.....	.....	.....
,972	C. & N. W.	8,462.83	167,581,042	7,373,750	4.40%	871
.....	C. B. & Q.	9,407.23	170,829,100	17,083,765	10.00%	1,816
.....	C. G. W.	1,496.06	92,118,015	.....	.....	.....
984	C. M. & St. P.	10,986.92	233,287,984	.....	.....	.....
.....	C. St. P. M. & O.	1,749.19	29,818,946	562,965	1.89%	322
.....	D. S. S. & A.	591.30	22,000,000	.....	.....	.....
.....	E. J. & E.	459.77	10,000,000	400,000	4.00%	870
548	G. B. & W.	234.15	10,100,000	125,000	1.24%	534
.....	I. C.	4,849.74	141,846,180	9,152,820	6.45%	1,887
96	L. S. & Ishpeming	161.51	1,428,000	321,300	22.50%	1,989
.....	M. & St. L.	1,647.26	25,792,600	.....	.....	.....
20	M. St. P. & S. S. M.	4,402.53	37,822,536	.....	.....	.....
560	Q. O. & K. C.	250.84	6,000,000	.....	.....	.....
.....	Wabash	2,489.93	138,120,700	.....	.....	.....
.....						
305						
362						
.....						
175						
375						
677	Total	65,866.32	$1,658,216,315	$59,321,019	3.58%	$901
298	Total Excl. A. T. & S. F. & C. R. I. & P.	49,185.25	$1,172,602,003	$35,019,600	2.99%	$712

[fol. 657]

Summary Comparing Total Operating Revenues, Operating Expenses, Ratio of Operating Expenses to Operating Revenues, and Operating Reve
31st, 1916, 1917, 1921, 1922, 1923

Carriers in Southwestern Territory

Year (1)	Average miles of road operated (2)	Total operating revenues (3)	Total operating expenses (4)	Operating ratio (5)	Operating revenues per mile of road (6)	
			Including A. T. & S. F. Ry. and C. R. I. & P. Ry. in Both Southwestern Ter			
1916	50,992.76	$511,349,551	$346,392,762	67.74%	$10,028	1
1917	51,024.05	585,246,589	393,426,216	67.22%	11,470	1
1921	51,127.03	850,161,300	664,531,619	78.17%	16,628	1
1922	51,037.91	795,423,183	619,514,096	77.88%	15,585	1
1923	50,963.94	853,815,347	660,261,805	77.33%	16,753	1
1924	51,036.30	869,681,162	648,663,680	74.59%	17,040	1
*1925	51,241.00	877,920,402	646,052,144	73.59%	17,133	*1
Average of 7 Years	51,060.43	$763,371,076	$568,406,046	73.46%	$14,950	
			Excluding A. T. & S. F. Ry. and C. R. I. & P. Ry. from Both Sout			
1916	34,743.88	$312,287,761	$220,699,136	70.67%	$8,988	1
1917	34,637.18	358,558,103	241,433,075	67.33%	10,352	1
1921	34,631.72	529,176,922	426,587,119	80.61%	15,280	1
1922	34,525.70	484,712,393	383,396,792	79.10%	14,039	1
1923	34,371.84	525,875,115	414,301,638	78.78%	15,300	1
1924	34,355.23	551,319,830	410,957,316	74.54%	16,048	1
*1925	34,485.86	557,521,847	414,699,786	74.38%	16,000	*1
Average of 7 Years	34,535.92	$474,207,424	$358,867,837	75.68%	$13,731	

* See Foot Notes on Page 24.

d Operating Revenues Per Mile of Road Operated, for Class I Carriers in Southwestern and Western Trunk Line Territories, for the Years Ended December 1921, 1922, 1923, 1924 and 1925

Carriers in Western Trunk Line Territory

Operating revenues per mile of road (6)	Year (7)	Average miles of road operated (8)	Total operating revenues (9)	Total operating expenses (10)	Operating ratio (11)	Operating revenues per mile of road (12)
Southwestern Territory and Western Trunk Line Territory						
10,028	1916	64,804.89	$766,835,069	$498,707,460	65.03%	$11,833
1,470	1917	64,976.41	847,429,315	593,225,945	70.00%	13,042
6,628	1921	65,334.42	1,177,886,405	962,484,831	81.71%	18,029
5,585	1922	65,465.55	1,187,858,428	937,658,776	78.94%	18,145
6,753	1923	65,640.32	1,280,707,746	1,005,094,263	78.48%	19,511
7,040	1924	65,866.32	1,210,735,472	935,720,181	77.29%	18,382
7,133	*1925	66,199.47	1,220,767,280	924,534,677	75.73%	18,441
4,950	Average of 7 Years	65,469.61	$1,098,888,531	$836,775,162	76.15%	$16,785
From Both Southwestern Territory and Western Trunk Line Territory						
8,988	1916	48,556.01	$567,773,279	$373,013,834	65.70%	$11,693
0,352	1917	48,589.54	620,740,829	441,232,804	71.08%	12,775
5,280	1921	48,839.11	856,902,027	724,540,330	84.55%	17,545
4,039	1922	48,953.34	877,147,638	701,541,472	79.98%	17,918
5,300	1923	49,048.13	952,767,514	759,134,096	79.68%	19,425
3,048	1924	49,185.25	892,374,140	698,013,817	78.22%	18,143
3,000	*1925	49,444.33	900,368,725	693,182,319	76.99%	18,210
1,731	Average of 7 Years	48,945.10	$809,724,879	$627,236,953	77.46%	$16,544

Total Operating Revenues, Operating Expenses, Ratio of Operating Expenses to Operating Revenues, and Operating Revenues Per Mile of R

Carriers in Southwestern Territory

Road	Average miles of road operated	Total operating revenues	Total operating expenses	Operating ratio	Operating revenues per mile of road	
(1)	(2)	(3)	(4)	(5)	(6)	
A. T. & S. F. (Inc. G. C. & S. F. & P. & S. F.	11,244.40	$143,949,673	$88,161,003	61.24%	$12,802	A.
C. R. I. & P. (Inc. C. R. I. & G.)	8,090.40	80,885,832	55,088,170	68.11%	9,998	C.
Ft. W. & D. C.	454.14	6,052,375	3,586,160	59.25%	13,327	C.
Ft. S. & W.	253.65	927,145	734,191	79.19%	3,655	C.
Gulf Coast Line	897.64	6,265,134	4,166,426	66.50%	6,980	C.
I. & G. N.	1,159.50	10,766,945	7,786,049	72.31%	9,286	C.
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.87	2,591,324	2,380,019	91.85%	3,512	C.
K. C. S. (Inc. T. & Ft. S.)	842.73	11,289,325	6,782,700	60.08%	13,396	C.
K. O. & G.	332.36	1,602,156	1,438,181	89.77%	4,821	C.
La. & Ark.	278.72	1,512,480	1,036,243	68.51%	5,427	D.
L. Ry. & N. Co.	349.18	2,142,164	1,468,181	68.54%	6,135	E.
Mid. Val.	383.02	2,121,217	1,495,177	70.48%	5,538	G.
M. & N. A.	365.24	1,310,935	1,027,497	78.38%	3,589	I.
M. K. T. (Inc. M. K. T. of T.) and W. F. & N. W.	3,865.02	36,733,682	29,437,089	80.14%	9,504	L. M.
Mo. Pac.	7,437.26	69,972,812	51,342,397	73.37%	9,408	
St. L. S. F. (Inc. St. L. S. F. & T.) and Ft. W. & R. G.	5,231.11	52,976,236	35,517,603	67.04%	10,127	M.
St. L. S. W. (Inc. St. L. S. W. of T.)	1,753.83	13,850,130	9,318,305	67.28%	7,897	Q.
S. A. & A. P.	732.65	4,141,619	3,420,253	82.58%	5,653	W.
S. A. U. & G.	317.26	667,332	514,833	77.15%	2,103	
Sou. Pac. (Tex. & La.)	3,534.70	36,888,394	24,224,421	65.67%	10,436	
T. & P.	1,946.50	20,858,657	14,373,029	68.91%	10,716	
T. & B. V.	357.21	1,058,408	1,322,555	124.96%	2,963	
V. S. & P.	171.47	1,805,138	1,209,460	67.00%	10,527	
Wich. Val.	256.90	980,438	562,820	57.40%	3,816	
Total	50,992.76	$511,349,551	$346,392,762	67.74%	$10,028	
Total Ecl. A. T. & S. F. and C. R. I. & P.	34,743.88	$312,287,761	$220,699,136	70.67%	$8,988	

venues Per Mile of Road Operated, for Class I Carriers in Southwestern and Western Trunk Line Territories, for the Year Ended December 31, 1916

Carriers in Western Trunk Line Territory

Operating revenues per mile of road	Road	Average miles of road operated	Total operating revenues	Total operating expenses	Operating ratio	Operating revenues per mile of road
(6)	(7)	(8)	(9)	(10)	(11)	(12)
$12,802	A. T. & S. F.	8,636.42	$121,578,879	$72,896,805	59.96%	$14,077
9,998	C. R. I. & P.	7,612.46	77,482,911	52,796,821	68.14%	10,178
13,327	C. & A.	1,052.65	17,781,279	12,498,253	70.29%	16,892
3,655	C. & E. I.	1,160.62	16,874,053	13,180,323	78.11%	14,539
6,980	C. & N. W.	8,423.55	98,987,823	65,726,621	66.40%	11,751
9,286	C. B. & Q.	9,370.39	109,191,204	65,235,705	59.74%	11,653
3,512	C. G. W.	1,490.22	16,131,692	11,249,666	69.74%	10,825
13,396	C. M. & St. P.	10,196.25	110,609,689	73,765,051	66.69%	10,848
4,821	C. S. T. P. M. & O.	1,752.81	20,855,286	13,608,879	65.25%	11,898
5,427	D. S. S. & A.	602.42	3,750,688	2,670,052	71.19%	6,226
6,135	E. J. & E.	797.36	14,138,323	8,925,906	63.13%	17,731
5,538	G. B. & W.	252.70	850,071	574,972	67.64%	3,364
3,589	I. C.	4,766.79	73,740,266	52,843,149	71.66%	15,470
9,504	L. S. & Ishpeming	34.04	828,112	577,995	69.80%	24,328
	M. & St. L.	1,646.75	10,995,223	7,288,344	66.29%	6,677
9,408						
10,127	M. St. P. & S. S. M.	4,228.11	34,472,084	19,241,592	55.82%	8,153
7,897	Q. O. & K. C.	262.29	895,878	752,909	84.04%	3,416
5,653	Wabash	2,519.06	37,671,608	24,874,417	66.03%	14,955
2,103						
10,436						
10,716						
2,963						
10,527						
3,816						
$10,028	Total	64,804.89	$766,835,069	$498,707,460	65.03%	$11,833
$8,988	Total Excl. A. T. & S. F. and C. R. I. & P.	48,556.01	$567,773,279	$373,013,834	65.70%	$11,693

[fol. 659]

Total Operating Revenues, Operating Expenses, Ratio of Operating Expenses to Operating Revenues, and Operating Revenues Per Mile of Roa

Carriers in Southwestern Territory

Road (1)	Average miles of road operated (2)	Total operating revenues (3)	Total operating expenses (4)	Operating ratio (5)	Operating revenues per mile of road (6)
A. T. & S. F. (Inc. G. C. & S. F. & P. & S. F.)	11,269.32	$165,155,435	$104,856,173	63.49%	$14,655
C. R. I. & P. (Inc. C. R. I. & G.)	8,219.36	89,608,723	66,046,105	73.70%	10,902
Ft. W. & D. C.	454.14	6,546,863	4,032,634	61.60%	14,416
Ft. S. & W.	253.65	1,179,849	941,700	79.82%	4,651
Gulf Coast Lines	858.15	6,470,318	4,048,363	62.57%	7,540
I. & G. N.	1,159.50	12,588,224	8,649,994	68.71%	10,857
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.87	2,526,123	2,489,983	98.57%	3,424
K. C. S. (Inc. T. & Ft. S.)	861.73	13,547,487	8,205,536	60.57%	15,721
K. O. & G.	332.00	1,906,916	1,693,817	88.82%	5,744
La. & Ark.	302.34	1,569,722	1,123,396	71.57%	5,192
L. Ry. & N. C.	352.37	2,497,535	1,738,052	69.59%	7,088
Mid. Val.	383.66	2,927,127	2,040,800	69.72%	7,629
M. & N. A.	365.24	1,417,969	1,122,310	79.15%	3,882
M. K.-T. (Inc. M.-K.-T. of T. and W. F. & N. W.)	3,866.31	43,344,151	33,143,548	76.47%	11,211
Mo. Pac.	7,325.41	78,320,313	53,248,039	67.99%	10,692
St. L.-S. F. (Inc. St. L. S. F. & T. and Ft. W. & R. G.)	5,181.17	59,556,474	39,382,571	66.13%	11,495
St. L. S. W. (Inc. St. L. S. W. of T.)	1,753.50	17,309,657	10,896,860	62.95%	9,871
S. A. & A. P.	726.25	4,178,192	3,517,595	84.19%	5,753
S. A. U. & G.	317.26	843,687	588,702	69.78%	2,659
Sou. Pac. (Tex. & La.)	3,561.15	46,798,489	27,035,708	57.77%	13,141
T. & P.	1,946.50	22,714,007	15,389,755	67.75%	11,669
T. & B. V.	368.80	1,095,339	1,281,177	116.97%	2,970
V. S. & P.	171.47	2,206,558	1,397,315	63.33%	12,868
Wich. Val.	256.90	937,431	556,083	59.32%	3,649
Total	51,024.05	$585,246,589	$393,426,216	67.22%	$11,470
Total Excl. A. T. & S. F. and C. R. I. & P.	34,637.18	$358,558,103	$241,433,075	67.33%	$10,352

...es Per Mile of Road Operated, for Class I Carriers in Southwestern and Western Trunk Line Territories, for the Year Ended December 31, 1917

Carriers in Western Trunk Line Territory

...erating ...venues ...er mile ...f road (6)	Road (7)	Average miles of road operated (8)	Total operating revenues (9)	Total operating expenses (10)	Operating ratio (11)	Operating revenues per mile of road (12)
...4,655	A. T. & S. F.	8,642.32	$140,978,936	$88,504,050	62.78%	$16,313
...0,902	C. R. I. & P.	7,744.55	85,709,550	63,489,091	74.07%	11,067
...4,416	C. & A.	1,052.65	20,525,689	15,133,977	73.73%	19,499
...4,651	C. & E. I.	1,131.39	21,012,173	16,398,363	78.04%	18,572
...7,540	C. & N. W.	8,423.80	109,479,441	79,422,481	72.55%	12,996
...0,857	C. B. & Q.	9,373.38	122,342,707	78,632,344	64.27%	13,052
...3,424	C. G. W.	1,496.06	16,368,323	12,492,412	76.32%	10,941
...5,721	C. M. & St. P.	10,256.53	113,739,202	85,195,964	74.90%	11,089
...5,744	C. St. P. M. & O.	1,749.33	21,476,509	15,841,313	73.76%	12,277
...5,192	D. S. S. & A.	600.82	4,316,295	3,452,572	79.99%	7,184
...7,088	E. J. & E.	802.99	15,816,473	10,997,720	69.53%	19,697
...7,629	G. B. & W.	253.80	838,536	635,903	75.83%	3,304
...3,882	I. C.	4,766.04	87,144,787	62,339,835	71.54%	18,285
...1,211	L. S. & Ishpeming	34.04	791,252	579,086	73.19%	23,245
	M. & St. L	1,646.75	11,005,063	7,869,191	71.51%	6,683
...0,692						
...1,495	M. St. P. & S. S. M.	4,227.81	34,540,591	22,964,793	66.49%	8,170
...0,871	~~Q. O. & K. C.~~	255.09	871,889	807,954	92.67%	3,418
...5,753	Wabash	2,519.06	40,471,999	28,468,896	70.34%	16,066
...1,659						
...6,141						
...1,669						
...3,970						
...3,868						
...1,649						
...1,470	Total	64,976.41	$847,429,315	$593,25,945	70.00%	$13,042
...1,352	Total Excl. A. T. & S. F. and C. R. I. & P.	48,589.54	$620,740,829	$441,232,804	71.08%	$12,775

Total Operating Revenues, Operating Expenses, Ratio of Operating Expenses to Operating Revenues, and Operating Revenues Per Mile of Ro

Carriers in Southwestern Territory

Road	Average miles of road operated	Total operating revenues	Total operating expenses	Operating ratio	Operating revenues per mile of road
(1)	(2)	(3)	(4)	(5)	(6)
A. T. & S. F. (Inc. G. C. & S. F. & P. & S. F.)	11,599.03	$227,958,701	$159,136,519	69.81%	$19,653
C. R. I. & P. (Inc. C. R. I. & G.)	8,122.83	139,272,024	112,953,058	81.10%	17,146
Ft. W. & D. C.	454.14	11,334,958	7,512,206	66.27%	24,959
Ft. S. & W.	249.75	1,773,095	1,702,584	96.02%	7,099
Gulf Coast Lines	860.19	10,757,216	7,967,622	74.07%	12,506
I. & G. N.	1,159.50	17,717,197	15,918,436	89.85%	15,280
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.95	3,988,997	4,452,757	111.63%	5,406
K. C. S. (Inc. T. & Ft. S.)	863.15	21,840,438	16,003,485	73.27%	25,303
K. O. & G.	317.29	2,337,527	2,118,614	90.63%	7,367
La. & Ark.	302.34	3,380,764	2,728,910	80.72%	11,182
L. Ry. & N. Co.	343.67	3,863,969	3,229,421	83.57%	11,243
Mid. Val.	365.88	4,462,757	3,406,800	76.34%	12,197
M. & N. A.	364.57	661,973	1,074,520	162.32%	1,816
M. K. T. (Inc. M. K. T. of T.) and W. F. & N. W.	3,783.69	63,020,976	50,055,785	79.43%	16,656
Mo. Pac.	7,300.36	109,785,950	91,693,856	83.52%	15,038
St. L.-S. F. (Inc. St. L. S. F. & T. and Ft. W. & R. G.)	5,130.58	85,560,548	63,728,578	74.48%	16,677
St. L. S. W. (Inc. St. L. S. W. of T.)	1,775.98	25,140,164	19,089,558	75.93%	14,156
S. A. & A. P.	739.36	6,296,397	6,046,068	96.02%	8,516
S. A. U. & G.	317.26	1,147,282	920,784	80.26%	3,616
Sou. Pac. (Tex. & La.)	3,592.27	64,884,221	57,469,104	88.57%	18,062
T. & P.	1,951.14	35,600,474	30,138,445	84.66%	18,246
T. & B V.	368.80	3,501,010	2,789,266	79.67%	9,493
V. S. & P.	171.44	4,151,552	3,297,256	79.42%	24,216
Wich. Val.	255.86	1,723,110	1,097,987	63.72%	6,735
Total	51,127.03	$850,161,300	$664,531,619	78.17%	$16,628
Total, Excl. A. T. & S. F. and C. R. I. & P.	34,631.72	$529,176,922	426,587,118	80.61%	15,280

...es Per Mile of Road Operated, for Class I Carriers in Southwestern and Western Trunk Line Territories, for the Year Ended December 31, 1921

Carriers in Western Trunk Line Territory

...erating ...venues ...r mile ...f road (6)	Road (7)	Average miles of road operated (8)	Total operating revenues (9)	Total operating expenses (10)	Operating ratio (11)	Operating revenues per mile of road (12)
...,653	A. T. & S. F.	8,833.70	$189,217,520	$130,774,167	69.11%	$21,420
...,146	C. R. I. & P.	7,661.61	131,766,858	107,170,334	81.33%	17,198
...,959	C. & A.	1,050.51	30,994,209	26,417,685	85.23%	29,504
...,099	C. & E. I.	1,130.81	27,099,146	23,944,405	88.35%	23,964
...,506	C. & N. W.	8,402.28	144,775,476	129,091,428	89.17%	17,230
...,280	C. B. & Q.	9,393.07	168,712,268	128,216,290	76.00%	17,961
...,406	C. G. W.	1,496.06	24,228,611	21,426,165	88.43%	16,195
...,303	C. M. & St. P.	10,808.63	146,765,766	127,957,002	87.18%	13,579
...,367	C. St. P. M. & O.	1,749.19	28,137,408	24,392,314	86.69%	16,086
...,182	D. S. S. & A.	591.80	4,464,863	4,565,202	102.25%	7,545
...,243	E. J. & E.	456.59	19,334,942	13,613,040	70.41%	42,346
...,197	G. B. & W.	252.39	1,395,576	1,076,859	77.16%	5,529
...,816	I. C.	4,799.37	141,127,066	116,852,333	82.80%	29,405
...,656	L. S. & Ishpeming	33.43	411,615	555,562	134.97%	12,313
	M. & St. L.	1,651.01	16,185,130	14,762,129	91.21%	9,803
...,038						
...,677	M. St. P. & S. S. M.	4,298.09	42,745,440	39,755,399	93.01%	9,945
...,156	Q. O. & K. C.	252.92	1,306,819	1,408,348	107.77%	5,167
...,516	Wabash	2,472.96	59,217,692	50,506,169	85.29%	23,946
...,616						
...,062						
...,246						
...,493						
...,216						
...,735						
...,628	Total	65,334.42	$1,177,886,405	$962,484,831	81.71%	$18,029
...,280	Total, Excl. A. T. S. F. and C. R. I. & P.	48,839.11	$856,902,027	$724,540,330	84.55%	$17,545

Total Operating Revenues, Operating Expenses, Ratio of Operating Expenses to Operating Revenues, and Operating Revenues Per Mile of Ro

Carriers in Southwestern Territory

Road	Average miles of road operated	Total operating revenues	Total operating expenses	Operating ratio	Operating revenues per mile of road
(1)	(2)	(3)	(4)	(5)	(6)
A. T. & S. F. (Inc. G. C. & S. F. & P. & S. F.)	11,622.74	$224,017,491	$165,996,635	74.10%	$19,274
C. R. I. & P. (Inc. C. R. I. & G.)	8,116.23	125,086,234	100,570,926	80.40%	15,412
Ft. W. & D. C.	456.31	9,717,037	6,725,890	69.22%	21,295
Ft. S. & W.	249.75	1,692,267	1,352,543	79.92%	6,776
Gulf Coast Lines	860.19	10,105,221	6,719,221	66.49%	11,748
I. & G. N.	1,159.50	14,674,116	12,280,300	83.69%	12,656
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.95	2,976,579	3,113,526	104.60%	4,034
K. C. S. (Inc. T. & Ft. S.)	862.93	20,361,180	15,083,460	74.08%	23,595
K. O. & G.	314.45	2,871,212	2,063,246	71.86%	9,131
La. & Ark.	302.25	3,294,233	2,304,073	69.94%	10,899
L. Ry. & N. Co.	343.67	3,604,117	2,975,045	82.55%	10,487
Mid. Val.	365.45	4,661,004	3,246,381	69.65%	12,754
M. & N. A.	323.29	753,508	585,413	77.69%	2,331
M.-K.-T. (Inc. M. K. T. of T. and W. F. & N. W.)	3,737.46	55,035,701	39,683,701	72.11%	14,725
Mo. Pac	7,261.78	99,921,331	84,658,915	84.73%	13,760
St. L. S. F. (Inc. St. L. S. F. & T. and Ft. W. & R. G.)	5,130.54	82,286,925	62,061,866	75.42%	16,039
St. L. S. W. (Inc. St. L. S. W. of T.)	1,775.98	26,159,924	20,004,576	76.47%	14,730
S. A. & A. P.	739.36	5,780,169	5,263,282	91.06%	7,818
S. A. U. & G.	317.26	1,033,309	855,369	82.78%	3,257
Sou. Pac. (Tex. & La.)	3,610.98	62,099,193	52,250,629	84.14%	17,197
T. & P.	1,952.74	31,381,795	25,494,086	81.24%	16,071
T. & B. V.	368.89	2,777,179	2,272,449	81.83%	7,528
V. S. & P.	171.44	3,717,970	3,016,260	81.13%	21,687
Wich. Val.	256.77	1,415,488	936,304	66.15%	5,513
Total	51,037.91	$795,423,183	$619,514,096	77.88%	15,585
Total, Excl. A. T. & S. F. and C. R. I. & P.	34,525.70	$484,712,393	$383,396,792	79.10%	14,039

nues Per Mile of Road Operated, for Class I Carriers in Southwestern and Western Trunk Line Territories, for the Year Ended December 31, 1922

Carriers in Western Trunk Line Territory

Operating revenues per mile of road (6)	Road (7)	Average miles of road operated (8)	Total operating revenues (9)	Total operating expenses (10)	Operating ratio (11)	Operating revenues per mile of road (12)
19,274	A. T. & S. F.	8,857.21	$191,506,230	$140,356,507	73.29%	$21,622
15,412	C. R. I. & P.	7,655.00	119,204,560	95,760,797	80.33%	15,572
21,295	C. & A.	1,050.51	27,593,925	23,647,591	85.70%	26,267
6,776	C. & E. I.	945.13	24,731,348	21,134,733	85.46%	26,167
11,748	C. & N. W.	8,403.82	146,100,437	119,191,134	81.58%	17,385
12,656	C. B. & Q.	9,393.69	164,916,471	126,777,703	76.87%	17,556
4,034	C. G. W.	1,496.06	24,224,789	21,274,236	87.82%	16,192
23,595	C. M. & St. P.	11,029.86	156,950,628	129,596,696	82.57%	14,230
9,131	C. St. P. M. & O.	1,749.19	27,801,007	22,297,051	80.20%	15,894
10,899	D. S. S. & A.	591.30	4,492,354	3,972,528	88.43%	7,597
10,487	E. J. & E.	459.22	21,483,415	13,697,891	63.76%	46,782
12,754	G. B. & W.	257.46	1,349,239	1,066,885	79.07%	5,241
2,331	I. C.	4,784.52	154,860,387	119,129,269	76.93%	32,367
14,725	L. S. & Ishpeming	33.43	1,073,498	638,779	59.50%	32,112
13,760	M. & St. L.	1,649.90	15,558,248	13,337,710	85.72%	9,430
16,039	M. St. P. & S. S. M.	4,383.57	47,107,105	36,442,851	77.36%	10,746
14,730	Q. O. & K. C.	252.72	1,242,291	1,295,118	104.25%	4,916
17,818	Wabash	2,472.96	57,662,496	48,041,297	83.31%	23,317
13,257						
17,197						
16,071						
17,528						
21,687						
15,513						
15,585	Total	65,465.55	$1,187,858,428	$937,658,776	78.94%	$18,145
14,039	Total, Excl. A. T. & S. F. and C. R. I. & P.	48,953.34	$877,147,638	$701,541,472	79.98%	$17,918

Total Operating Revenues, Operating Expenses, Ratio of Operating Expenses, to Operating Revenues, and Operating Revenues Per Mile of R

Carriers in Southwestern Territory

Road (1)	Average miles of road operated (2)	Total operating revenues (3)	Total operating expenses (4)	Operating ratio (5)	Operating revenues per mile of road (6)
A. T. & S. F. (Inc. G. C. & S. F. & P. & S. F.)	11,724.23	$237,797,147	$172,602,873	72.58%	$20,283
C. R. I. & P. (Inc. C. R. I. & G.)	8,096.36	130,403,086	104,990,137	80.51%	16,106
Ft. W. & D. C.	456.31	9,625,851	6,657,629	69.16%	21,095
Ft. S. & W.	249.75	1,590,871	1,370,250	86.13%	6,370
Gulf Coast Lines	860.19	11,651,336	7,253,317	62.25%	13,545
I. & G. N.	1,159.50	15,806,608	12,542,633	79.35%	13,632
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.95	3,662,128	3,470,137	94.76%	4,963
K. C. S. (Inc. T. & Ft. S.)	848.68	22,485,099	16,708,811	74.31%	26,494
K. O. & G.	314.42	2,489,370	1,980,958	79.58%	7,917
La. & Ark.	302.25	3,796,299	2,556,546	67.34%	12,560
L. Ry. & N. Co.	549.75	4,911,493	4,080,236	83.08%	8,934
Mid. Val.	365.31	4,500,148	3,034,240	67.43%	12,319
M. & N. A.	364.57	1,509,848	1,268,463	84.01%	4,141
M. K. T. (Inc. M.-K.-T. of T. and W. F. & N. W.)	3,359.76	55,987,918	43,628,319	77.92%	16,664
Mo. Pac.	7,235.72	114,607,975	97,939,966	85.46%	15,839
St. L.-S. F. (Inc. St. L.-S. F. & T. and Ft. W. & R. G.)	5,120.84	88,919,198	65,394,181	73.54%	17,364
St. L. S. W. (Inc. St. L. S. W. of T.)	1,775.85	29,551,120	21,990,213	74.41%	16,641
S. A. & A. P.	739.36	6,455,496	5,421,599	83.98%	8,731
S. A. U. & G.	317.26	1,219,654	958,739	78.61%	3,844
Sou. Pac. (Tex. & La.)	3,610.98	64,750,597	54,678,714	84.45%	17,932
T. & P.	1,952.74	32,592,489	24,981,658	76.65%	16,691
T. & B. V.	368.89	3,482,581	2,601,439	74.70%	9,441
V. S. & P.	184.21	4,460,579	3,263,204	73.16%	24,215
Wich. Val.	269.06	1,558,456	887,543	56.95%	5,792
Total	50,963.94	$853,815,347	$660,261,805	77.33%	$16,753
Total Excl. A. T. & S. F. and C. R. I. & P.	34,371.84	$525,875,115	$414,301,638	78.78%	$15,300

nues Per Mile of Road Operated, for Class I Carriers in Southwestern and Western Trunk Line Territories, for the Year Ended December 31, 1923

Carriers in Western Trunk Line Territory

Operating revenues per mile of road (6)	Road (7)	Average miles of road operated (8)	Total operating revenues (9)	Total operating expenses (10)	Operating ratio (11)	Operating revenues per mile of road (12)
20,283	A. T. & S. F.	8,956.97	$203,311,792	$145,687,273	71.66%	$22,699
16,106	C. R. I. & P.	7,635.13	124,628,440	100,272,894	80.46%	16,323
31,095	C. & A.	1,050.40	33,588,194	25,389,229	75.59%	31,977
16,370	C. & E. I.	945.13	28,405,408	24,279,112	85.47%	30,054
13,545	C. & N. W.	8,462.53	160,425,965	132,507,531	82.60%	18,957
13,632	C. B. & Q.	9,401.41	171,270,661	134,290,379	78.41%	18,218
14,963	C. G. W.	1,496.06	25,723,707	21,431,016	83.31%	17,194
16,494	C. M. & St. P.	11,010.74	169,628,338	134,999,228	79.59%	15,406
17,917	C. St. P. M. & O.	1,749.19	28,363,234	23,516,147	82.91%	16,215
12,560	D. S. S. & A.	591.30	5,862,546	4,693,351	80.06%	9,915
18,934	E. J. & E.	459.72	27,539,298	18,483,534	67.12%	59,905
12,319	G. B. & W.	234.15	1,317,716	1,117,623	84.82%	5,628
14,141	I. C.	4,840.25	165,626,982	132,429,231	79.96%	34,219
16,664	L. S. & Ishpeming	33.43	1,277,151	753,548	59.00%	38,204
	M. & St. L.	1,649.90	16,524,961	14,288,791	86.47%	10,016
15,839						
17,364	M. St. P. & S. S. M.	4,396.49	49,345,337	37,615,134	76.23%	11,224
16,641	Q. O. & K. C.	250.84	1,250,380	1,306,747	104.51%	4,985
18,731	Wabash	2,476.59	66,617,636	52,033,495	78.11%	26,899
13,844						
17,932						
16,691						
19,441						
14,215						
15,792						
16,753	Total	65,640.23	$1,280,707,746	$1,005,094,263	78.48%	$19,511
18,300	Total, Excl. A T. & S. F. and C. R. I. & P.	49,048.13	$952,767,514	$759,134,096	79.68%	$19,425

Total Operating Revenues, Operating Expenses, Ratio of Operating Expenses to Operating Revenues, and Operating Revenues Per Mile of Ro

Carriers in Southeastern Territory

Road (1)	Average miles of road operated (2)	Total operating revenues (3)	Total operating expenses (4)	Operating ratio (5)	Operating revenues per mile of road (6)
St. & S. F. (Inc. G. C. & S. F. & P. & S. F.)	11,836.98	$235,410,952	$170,314,808	72.35%	$19,888
C. R. I. & P. (Inc. C. R. I. & G.)	8,072.69	130,880,511	101,206,546	77.33%	16,213
Ft. W. & D. C.	456.64	11,170,306	6,699,357	59.97%	24,462
Ft. S. & W.	249.75	1,909,118	1,416,219	74.18%	7,644
Gulf Coast Lines	860.19	13,986,807	8,620,465	61.63%	16,260
I. & G. N.	1,159.50	16,901,448	12,955,240	76.65%	14,576
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.95	5,028,639	4,310,716	85.72%	6,814
K. C. S. (Inc. T. & Ft. S.)	854.09	21,024,013	15,256,529	72.57%	24,616
K. O. & G.	314.42	2,184,589	1,924,286	88.08%	6,948
La. & Ark.	302.25	4,030,319	2,972,372	73.75%	13,334
L. Ry. & N. Co.	544.71	5,489,712	4,837,010	88.11%	10,078
Mid. Val.	364.90	4,535,840	2,992,597	65.98%	12,430
M. & N. A.	364.57	1,587,104	1,391,594	87.68%	4,353
M. K. T. (Inc. M. K. T. of T. and W. F. & N. W.)	3,193.14	57,309,345	39,732,034	69.33%	17,948
Mo. Pac.	7,359.97	123,647,723	98,466,365	79.63%	16,800
St. L.-S. F. (Inc. St. L. S. F. & T. and Ft. W. & R. G.)	5,132.24	89,571,119	63,439,981	70.83%	17,453
St. L. S. W. (Inc. St. L. S. W. of T.)	1,777.01	26,326,291	20,027,913	76.08%	14,815
S. A. & A. P.	739.36	7,430,673	6,274,907	84.45%	10,050
S. A. U. & G.	317.26	1,521,348	1,195,798	78.60%	4,795
Sou. Pac. (Tex. & La.)	3,616.67	67,116,612	52,729,116	78.56%	18,558
T. & P.	1,952.74	33,784,580	25,242,324	74.72%	17,301
T. & B. V.	368.89	2,665,372	2,398,704	90.00%	7,225
V. S. & P.	188.46	4,259,264	3,327,474	78.12%	22,600
Wich. Val.	271.92	1,909,477	931,325	48.77%	7,022
Total	51,036.30	$869,681,162	$648,663,680	74.59%	$17,040
Total Excl. A. T. & S. F. and C. R. I. & P.	34,355.23	$551,319,830	$410,957,316	74.54%	$16,048

venues Per Mile of Road Operated, for Class I Carriers in Southwestern and Western Trunk Line Territories, for the Year Ended December 31, 1924

Carriers in Western Trunk Line Territory

Operating revenues per mile of road (6)	Road (7)	Average miles of road operated (8)	Total operating revenues (9)	Total operating expenses (10)	Operating ratio (11)	Operating revenues per mile of road (12)
$19,888	A. T. S. F.	9,069.61	$194,174,238	$141,141,872	72.69%	$21,409
16,213	C. R. I. & P.	7,611.46	124,187,094	96,564,492	77.76%	16,316
24,462	C. & A.	1,050.86	30,854,030	23,893,469	77.44%	29,361
7,644	C. & E. I.	945.13	26,068,788	22,453,256	86.13%	27,582
16,260	C. & N. W.	8,462.83	149,454,584	120,536,645	80.65%	17,660
14,576	C. B. & Q.	9,407.23	162,674,878	119,958,734	73.74%	17,293
6,814	C. G. & W.	1,496.06	24,726,678	20,238,411	81.85%	16,528
24,616	C. M. & St. P.	10,986.92	158,366,459	125,550,061	79.28%	14,414
6,948	C. St. P. & M. & O.	1,749.19	27,915,736	22,189,824	79.49%	15,959
13,334	D. S. S. & A.	591.30	5,902,129	4,786,425	81.10%	9,982
10,078	E. J. & E.	459.77	21,521,787	15,287,842	71.03%	46,810
12,430	G. N. & W.	234.15	1,497,687	1,147,111	76.59%	6,396
4,353	I. C.	4,849.74	151,711,549	117,844,732	77.68%	31,282
17,948	L. S. & Ishpeming	161.51	1,804,615	1,343,511	74.45%	11,173
	M. & St. L.	1,647.26	15,097,126	14,546,992	96.36%	9,165
16,800						
17,453	M. St. P. & S. S. M.	4,402.53	47,945,360	36,813,855	76.78%	10,890
14,815	Q. O. & K. C.	250.84	1,051,805	1,124,532	106.91%	4,193
10,050	Wabash	2,489.93	65,780,929	50,298,417	76.46%	26,419
4,795						
18,558						
17,301						
7,225						
22,600						
7,022						
$17,040	Total	65,866.32	$1,210,735,472	$935,720,181	77.29%	$18,382
$16,048	Total, Excl. A. T. & S. F. and C. R. I. & P.	49,185.25	$892,374,140	$698,013,817	78.22%	$18,143

Total Operating Revenues, Operating Expenses, Ratio of Operating Expenses, to Operating Revenues, and Operating Revenues Per Mile of Road Op

Carriers in Southwestern Territory

Road	Average miles of road operated (o)	Total operating revenues (*)	Total operating expenses (*)	Operating ratio	Operating revenues per mile of road
(1)	(2)	(3)	(4)	(5)	(6)
A. T. & S. F. (Inc. G. C. & S. F. & P. & S. F.)	11,952.84	$236,246,320	$163,576,718	69.24%	$19,765
C. R. I. & P. (Inc. C. R. I. & G.)	8,029.54	130,264,476	101,082,539	77.60%	16,223
Ft. W. & D. C.	474.87	11,222,569	7,080,247	63.09%	23,633
Ft. S. & W.	249.75	1,873,961	1,349,048	71.99%	7,503
Gulf Coast Lines	860.19	14,578,224	9,531,858	65.38%	16,948
I. & G. N.	1,159.50	16,906,172	13,402,840	79.28%	14,581
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.95	5,708,337	4,797,837	84.05%	7,735
K. C. S. (Inc. T. & Ft. S.)	858.12	21,141,404	14,574,984	68.94%	24,637
K. O. & G.	314.42	2,473,042	2,247,121	90.86%	7,865
La. & Ark.	302.25	4,070,884	2,729,654	67.05%	13,469
L. Ry. & N. Co. (Inc. L. Ry. & N. Co. of T.)	543.71	5,150,526	4,287,960	83.25%	9,473
Mid. Val.	364.04	4,404,568	2,773,863	62.98%	12,099
M. & N. A.	364.57	1,549,648	1,395,566	90.06%	4,251
M. K. T. (Inc. M. K. T. of T. and W. F. & N. W.)	3,188.54	57,032,349	39,331,202	68.96%	17,887
Mo. Pac.	7,337.61	130,432,286	101,944,022	78.16%	17,776
St. L.-S. F. (Inc. St. L. S. F. & T. and Ft. W. & R. G.)	5,281.30	93,210,215	65,007,512	69.74%	17,649
St. L. S. W. (Inc. St. L. S. W. of T.)	1,750.44	25,843,970	19,935,202	77.14%	14,764
S. A. & A. P.	Included with Sou. Pac.				
S. A. U. & G.	318.32	1,454,148	1,133,179	77.93%	4,568
Sou. Pac. (Tex. & La.)	4,371.69	71,042,765	56,934,824	80.14%	16,251
T. & P.	1,952.91	34,539,422	26,040,055	75.39%	17,686
T. & B. V.	368.12	2,569,243	2,600,164	101.20%	6,979
V. S. & P.	188.46	4,511,210	3,434,475	76.13%	23,937
Wich. Val.	271.86	1,694,663	861,274	50.82%	6,234
Total	51,241.00	$877,920,402	$646,052,144	73.59%	$17,133
Total, Excl. A. T. & S. F. and C. R. I. & P.	34,485.86	$557,521,847	$414,699,786	74.38%	$16,000

o—Average of eleven months ended November 30, 1925.

(*)—December 1925 estimated on basis of considering one-eleventh of the Operating Revenues and Operating Expenses for the eleven months

Per Mile of Road Operated, for Class 1 Carriers in Southwestern and Western Trunk Line Territories, for the Year Ended December 31, 1925

Carriers in Western Trunk Line Territory

Operating revenues per mile of road (6)	Road (7)	Average miles of road operated (o) (8)	Total operating revenues (*) (9)	Total operating expenses (*) (10)	Operating ratio (11)	Operating revenues per mile of road (12)
$19,765	A. T. & S. F.	9,185.51	$196,326,430	$134,780,439	68.65%	$21,373
16,223	C. R. I. & P.	7,569.63	124,072,125	96,571,919	77.84%	16,391
23,633	C. & A.	1,055.92	30,943,724	23,349,199	75.46%	29,304
7,503	C. & E. I.	945.13	26,112,179	21,809,496	83.52%	27,628
16,948	C. & N. W.	8,461.56	148,706,102	115,722,195	77.82%	17,574
14,581	C. B. & Q.	9,398.10	158,644,362	116,265,660	73.29%	16,880
7,735	C. G. W.	1,496.06	24,473,641	19,904,494	81.33%	16,359
24,637	C. M. & St. P.	11,204.93	161,711,380	131,032,492	81.03%	14,432
7,865	C. St. P. M. & O.	1,749.19	26,890,005	21,468,043	79.84%	15,373
13,469	D. S. S. & A.	590.91	5,911,176	4,626,967	78.27%	10,004
9,473	E. J. & E.	459.79	25,047,071	17,234,584	68.81%	54,475
2,099	G. B. & W.	234.15	1,565,349	1,135,755	72.56%	6,685
4,251	I. C.	4,874.99	152,543,756	117,214,593	76.84%	31,291
17,887	L. S. & Ishpeming	161.51	2,394,429	1,392,749	58.17%	14,825
	M. & St. L.	1,635.41	15,100,190	13,263,838	88.37%	9,178
17,776						
17,649	M. St. P. & S. S. M.	4,401.64	50,001,533	36,270,289	72.54%	11,360
14,764	Q. O. & K. C.	250.84	1,010,643	1,090,192	107.87%	4,029
	Wabash	2,524.20	69,403,185	51,401,773	74.06%	27,495
4,568						
16,251						
17,686						
6,979						
11,937						
6,234						
7,133	Total	66,199.47	$1,220,767,280	$924,534,677	75.73%	$18,441
16,000	Total, Excl. A. T. & S. F. and C. R. I. & P.	49,444.33	$900,368,725	$693,182,319	76.99%	$18,210

(*) The eleven months ended November 30, 1925, as representative of those for December, 1925.

Summary Comparing Separately the Freight and Passenger Operating Ratios for Class I Carriers in Southwestern and Western Trunk Line Territories for the Years Ended December 31, 1923, and 1924

	Year 1923		Year 1924		Years 1923 and 1924 Combined	
	Railway in S. W. Territory	Railways in W. T. L. Territory	Railways in S. W. Territory	Railways in W. T. L. Territory	Railways in S. W. Territory	Railways in W. T. L. Territory
Including A. T. & S. F. Ry. and C. R. I. & P. Ry. in Both Southwestern Territory and Western Trunk Line Territory						
Freight Operating Revenues.....	$634,348,826	$974,985,514	$664,005,734	$921,732,151	$1,298,354,560	$1,896,717,665
Freight Operating Expenses.....	481,820,838	750,309,037	473,738,139	684,679,189	955,558,977	1,434,988,226
Passenger Operating Revenues....	219,466,521	305,722,232	205,675,428	289,003,321	425,141,949	594,725,553
Passenger Operating Expenses....	178,440,967	254,785,226	174,925,541	251,040,992	353,366,508	505,826,218
Freight Operating Ratio.....	75.96%	76.96%	71.35%	74.28%	73.60%	75.66%
Passenger Operating Ratio.....	81.31%	83.34%	85.05%	86.86%	83.12%	85.05%
Operating Ratio of All Traffic.....	77.73%	78.48%	74.59%	77.29%	75.94%	77.90%
Excluding A. T. & S. F. Ry. and C. R. I. & P. Ry. from Both Southwestern Territory and Western Trunk Line Territory						
Freight Operating Revenues.....	$401,037,505	$741,674,193	$434,242,528	$691,968,945	$835,280,033	$1,433,643,138
Freight Operating Expenses.....	306,470,637	574,958,836	307,188,549	518,129,599	613,659,186	1,093,088,435
Passenger Operating Revenues....	124,837,610	211,093,321	117,077,301	200,405,194	241,914,911	411,598,515
Passenger Operating Expenses....	107,831,001	184,175,260	103,768,767	179,884,218	211,599,768	364,059,478
Freight Operating Ratio.....	76.42%	77.52%	70.74%	74.88%	73.47%	76.25%
Passenger Operating Ratio.....	86.38%	87.25%	88.63%	89.76%	87.47%	88.47%
Operating Ratio of all Traffic.....	78.78%	79.68%	74.54%	78.21%	76.61%	78.98%

Freight Earnings, Freight Operating Expenses, and Ratio of Freight Operating Expenses to Freight Earnings, for Class I Carriers in Southwestern Territory

Road (1)	Freight revenue (2)	Miscl. freight earnings (3)	Total freight earnings (4)	Freight operating expenses (5)	Freight operating ratio (6)
A. T. S. F. (Inc. G. C. S. F. & P. S. F.)	$166,310,159	$3,540,255	$169,850,414	$123,982,503	73.00%
C. R. I. P. (Inc. C. R. I. & G.)	93,109,326	2,046,703	95,156,029	76,129,105	80.00%
Ft. W. & D. C.	6,865,281	122,981	6,988,262	4,933,342	70.59%
Ft. S. & W.	1,179,016	32,627	1,211,643	1,002,879	82.77%
Gulf Coast Lines	8,802,664	137,419	8,940,083	4,879,787	54.58%
I. & G. N.	11,607,925	540,172	12,148,097	9,064,035	74.61%
K. C. M. & O. (Inc. K. C. M. & O. of T.)	3,231,241	54,854	3,286,095	2,894,984	88.10%
K. C. S. (Inc. T. & Ft. S.)	18,086,262	1,173,272	19,259,534	13,743,593	71.36%
K. O. & G.	2,262,943	32,164	2,295,107	1,684,298	73.39%
La. & Ark.	3,270,504	32,149	3,302,653	1,976,103	59.83%
L. Ry. & N. Co. (Inc. L. Ry. & N. Co. of T.)	4,128,815	118,353	4,247,168	3,134,063	73.79%
Mid. Val.	3,536,781	72,515	3,609,296	2,311,757	64.05%
M. & N. A.	1,139,759	16,668	1,156,427	868,322	75.09%
M. K. T. (Inc. M. K. T. of T. and W. F. & N. W.)	39,791,214	981,174	40,772,388	30,178,188	74.02%
Mo. Pac.	85,961,414	3,130,809	89,092,223	72,816,835	81.73%
St. L.-S. F. (Inc. St. L. S. F. & T. & Ft. W. & R. G.)	62,055,678	1,754,125	63,809,803	47,824,552	74.95%
St. L. S. W. (Inc. St. L. S. W. of T.)	24,596,070	539,942	25,136,012	17,576,406	69.93%
S. A. & A. P.	5,080,904	95,040	5,175,944	3,996,995	77.22%
Sav. & G.	870,803	13,645	884,448	586,135	66.27%
Sou. Pac. (Tex. and La.)	46,616,734	1,062,178	47,678,912	39,961,800	83.81%
T. & P.	22,482,492	470,454	22,952,946	17,364,692	75.65%
T. & B. V.	3,150,735	48,982	3,199,717	2,156,889	67.41%
V. S. & P.	2,940,793	88,167	3,028,960	2,168,288	71.59%
Wich. Val.	1,153,534	13,131	1,166,665	585,287	50.17%
Total	$618,231,047	16,117,779	634,348,826	481,820,838	75.96%
Total Excl. A. T. S. F. & C. R. I. & P.	389,874,376	11,163,129	401,037,505	306,470,637	76.42%

Earnings, for Class I Carriers in Southwestern and Western Trunk Line Territories, for the Year Ended December 31, 1923

Carriers in Western Trunk Line Territory

Freight operating ratio (6)	Road (7)	Freight revenue (8)	Miscl. freight earnings (9)	Total freight earnings (10)	Freight operating expenses (11)	Freight operating ratio (12)
73.00%	A. T. & S. F.	$139,655,477	$3,040,086	$142,695,563	$102,802,444	72.04%
80.00%	C. R. I. & P.	88,701,194	1,914,564	90,615,758	72,547,757	80.06%
70.59%	C. & A.	24,027,397	795,939	24,823,336	18,474,210	74.42%
82.77%	C. & E. I.	21,243,932	439,054	21,682,986	19,018,262	87.71%
54.58%	C. & N. W.	113,092,826	4,852,822	117,945,648	94,503,162	80.12%
74.61%	C. B. & Q.	126,433,098	4,829,660	131,262,758	101,617,299	77.42%
88.10%	C. G. W.	19,259,353	605,293	19,864,646	15,990,596	80.50%
71.36%	C. M. & St. P.	127,953,106	5,415,949	133,369,055	100,636,821	75.46%
73.39%	C. St. P. M. & O.	20,074,017	455,776	20,529,793	17,552,657	85.50%
59.83%	D. S. S. & A.	4,112,681	210,971	4,323,652	3,227,554	74.65%
73.79%	E. J. & E.	24,740,927	2,798,257	27,539,184	18,483,534	67.12%
64.05%	G. B. & W.	1,069,109	43,612	1,112,721	856,914	77.01%
75.09%	I. C.	127,081,546	3,511,712	130,593,258	102,570,478	78.54%
74.02%	L. S. & Ishpeming	1,068,731	207,054	1,275,785	728,777	57.12%
	M. & St. L.	14,023,698	284,632	14,308,330	11,570,529	80.87%
81.73%						
74.95%	M. St. P. & S. S. M.	37,604,190	858,206	38,462,396	28,186,752	73.28%
69.93%	Q. O. & K. C.	872,054	9,545	881,599	901,985	102.31%
77.22%	Wabash	51,698,168	2,000,878	53,699,046	40,639,306	75.68%
66.27%						
83.81%						
75.65%						
67.41%						
71.59%						
50.17%						
75.96%	Total	942,711,504	32,274,010	974,985,514	750,309,037	76.96%
76.42%	Total, Excl. A. T. S. & F. C. R. I. & P.	714,354,833	27,319,360	741,674,193	574,958,836	77.52%

Passenger Service Train Earnings, Passenger Operating Expenses, and Ratio of Passenger Operating Expenses to Passenger Service Tra

Carriers in Southwestern Territory

Road	Passenger revenue	Miscl. passenger train earnings	Total passenger train earnings	Passenger operating expenses	Passgr. operating ratio
(1)	(2)	(3)	(4)	(5)	(6)
A. T. S. F. (Inc. G. C. S. F. & P. S. F.)	$52,330,819	$15,615,914	$67,946,733	$48,620,370	71.56%
C. R. I. P. (Inc. C. R. I. & G.)	27,458,813	7,788,244	35,247,057	28,861,032	81.88%
Ft. W. & D. C.	2,188,048	449,541	2,637,589	1,724,287	65.37%
Ft. S. & W.	292,599	86,628	379,227	367,371	96.87%
Gulf Coast Lines	2,168,642	542,612	2,711,254	2,373,530	87.54%
I. & G. N.	2,773,103	885,408	3,658,511	3,478,598	95.08%
K. C. M. & O. (Inc. K. C. M. & O. of T.)	243,747	132,286	376,033	575,153	152.95%
K. C. S. (Inc. T. & Ft. S.)	2,422,776	802,789	3,225,565	2,965,218	91.93%
K. O. & G.	144,005	50,258	194,263	296,660	152.71%
L. A. & Ark.	422,114	71,532	493,646	580,443	117.58%
L. Ry. & N. C. (Inc. L. Ry. & N. Co. of T.)	522,153	142,172	664,325	946,173	142.43%
Mid. Val.	766,746	124,106	890,852	722,483	81.10%
M. & N. A.	269,757	83,664	353,421	400,141	113.22%
M. K. T. (Inc. M. K. T. of T. & W. F. & N. W.)	11,295,456	3,920,074	15,215,530	13,450,131	88.40%
Mo. Pac.	18,970,393	6,545,359	25,515,752	25,123,131	98.46%
St. L.-S. F. (Inc. St. L.-S. F. & T. & Ft. W. & R. G.)	20,516,365	4,593,031	25,109,396	17,569,629	69.97%
St. L. S. W. (Inc. St. L. S. W. of T.)	3,390,917	1,024,191	4,415,108	4,413,807	99.97%
S. A. & A. P.	960,994	318,558	1,279,552	1,424,604	111.34%
S. A. U. & G.	238,260	96,946	335,206	372,604	111.16%
Sou. Pac. (Tex. & L. A.)	14,026,399	3,045,285	17,071,684	14,716,914	86.21%
T. & P.	7,573,856	2,065,687	9,639,543	7,616,966	79.02%
T. & B. V.	241,644	41,220	282,864	444,550	157.16%
V. S. & P.	1,199,051	232,568	1,431,619	1,094,916	76.48%
Wich. Val.	315,606	76,185	391,791	302,256	77.15%
Total	170,732,263	48,734,258	219,466,521	178,440,967	81.31%
Total, Excl. A. T. & S. F. & C. R. I. & P.	97,738,986	27,098,624	124,837,610	107,831,001	86.38%

ger Service Train Earnings, for Class I Carriers in Southwestern and Western Trunk Line Territories, for the Year Ended December 31, 1923

Carriers in Western Trunk Line Territory

assgr. rating atio (6)	Road (7)	Passenger revenue (8)	Miscl. passenger train earnings (9)	Total passenger train earnings (10)	Passenger operating expenses (11)	Passgr. operating ratio (12)
1.56%	A. T. & S. F.	$46,445,181	$14,171,048	$60,616,229	$42,884,830	70.75%
1.88%	C. R. I. & P.	26,548,096	7,464,586	34,012,682	27,725,136	81.51%
5.37%	C. & A.	6,358,010	1,906,848	8,764,858	6,915,019	78.89%
6.87%	C. & E. I.	5,029,040	1,693,382	6,722,422	5,260,850	78.26%
7.54%	C. & N. W.	30,390,660	12,089,657	42,480,317	38,004,370	89.46%
5.08%	C. B. & Q.	28,569,831	11,438,072	40,007,903	32,673,080	81.67%
2.95%	C. G. W.	4,277,383	1,581,678	5,859,061	5,440,420	92.85%
1.93%	C. M. & St. P.	24,175,892	12,083,391	36,259,283	34,362,406	94.77%
2.71%	C. St. P. M. & O.	6,110,999	1,722,442	7,833,441	5,963,491	76.13%
7.58%	D. S. S. & A.	1,211,301	327,593	1,538,894	1,465,797	95.25%
2.43%	E. J. & E.	114	.....	114	.....	.....
1.10%	A. B. & W.	152,759	52,236	204,995	260,708	127.18%
3.22%	I. C.	27,042,401	7,991,323	35,033,724	29,858,753	85.23%
3.40%	L. S. & Ishpeming	709	657	1,366	24,771	813.40%
	M. & St. L.	1,641,911	574,720	2,216,631	2,718,261	122.63%
3.46%						
9.97%	M. S. T. P. & S. S. M.	7,666,758	3,216,183	10,882,941	9,428,383	86.63%
9.97%	Q. O. & K. C.	272,789	95,992	368,781	404,762	109.76%
1.34%	Wabash	9,794,594	3,123,996	12,918,590	11,394,189	88.20%
1.16%						
1.21%						
1.02%						
1.16%						
1.48%						
1.15%						
1.31%	Total	226,188,428	79,533,804	305,722,232	254,785,226	83.34%
1.38%	Total, Excl. A. T. & S. F. & C. R. I. & P.	153,195,151	57,898,170	211,093,321	184,175,260	87.25%

Freight Earnings, Freight Operating Expenses, and Ratio of Freight Operating Expenses to Freight Earnings, for Cla

Carriers in Southwestern Territory

Road (1)	Freight revenue (2)	Miscl. freight earnings (3)	Total freight earnings (4)	Freight operating expenses (5)	Freight operating ratio (6)
T. S. F. (Inc. G. C. & S. F. and P. & S. F.)	$168,101,035	$3,833,994	$171,935,029	$121,081,159	70.42%
R. I. P. (Inc. C. R. I. & G.)	95,185,730	2,101,328	97,287,058	71,948,367	77.96%
W. & D. C.	8,280,360	125,497	8,405,857	5,070,947	60.33%
S. & W.	1,554,814	32,198	1,587,012	1,062,011	66.92%
f Coast Lines	10,950,445	267,781	11,218,226	6,204,212	55.30%
t G. N.	12,673,345	629,588	13,302,933	9,415,077	70.77%
C. M. & O. (Inc. K. C. M. & O. of T.)	4,586,314	48,491	4,634,805	3,758,572	81.09%
C. S. (Inc. T. & Ft. S.)	16,927,685	1,258,789	18,186,474	12,239,143	67.30%
O. & G.	1,994,665	26,370	2,021,035	1,629,997	80.65%
A. & Ark.	3,524,606	35,880	3,560,486	2,404,604	67.54%
Ry. & N. Co. (Inc. L. Ry. & N. Co. of T.)	4,756,688	134,010	4,890,698	3,713,974	75.94%
l. Val.	3,735,444	66,057	3,801,501	2,382,759	62.68%
& N. A.	1,234,655	22,882	1,257,537	1,041,209	82.80%
K. T. (Inc. M. K. T. of T. and W. F. & N. W.)	42,331,705	966,885	43,298,590	27,591,615	63.72%
Pac.	95,949,391	3,441,144	99,390,535	74,149,942	74.60%
L. S. F. (Inc. St. L. S. F. & T. and F. T. W. & R. G.)	64,920,416	1,715,450	66,635,866	46,610,922	69.95%
L. S. W. (Inc. St. L. S. W. of T.)	21,783,501	1,476,791	23,260,292	15,633,403	67.21%
. & A. P.	6,083,854	103,998	6,187,852	4,759,716	76.92%
. U. & G.	1,143,999	14,666	1,158,665	814,166	70.27%
Pac. (Tex. & La.)	49,595,669	1,060,944	50,656,613	39,265,955	77.51%
t P.	23,930,347	492,075	24,322,422	18,042,263	73.88%
t B. V.	2,343,186	33,343	2,376,529	1,962,917	82.60%
. & P.	2,934,687	94,254	3,028,941	2,330,317	76.94%
h. Val.	1,482,631	18,147	1,500,778	624,892	41.64%
Total	**$646,005,172**	**$18,000,562**	**$664,005,734**	**$473,738,139**	**71.35%**
Total, Excl. A. T. S. F. & C. R. I. & P.	**421,455,047**	**12,787,481**	**434,242,528**	**307,188,549**	**70.74%**

Earnings, for Class I Carriers in Southwestern and Western Trunk Line Territories, for the Year Ended December 31, 1924

Carriers in Western Trunk Line Territory

Freight operating ratio (6)	Road (7)	Freight revenue (8)	Miscl. freight earnings (9)	Total freight earnings (10)	Freight operating expenses (11)	Freight operating ratio (12)
70.42%	A. T. & S. F.	$134,628,629	$3,257,312	$137,885,941	$98,056,347	71.11%
77.96%	C. R. I. & P.	89,921,496	1,955,769	91,877,265	68,493,243	74.55%
80.33%	C. & A.	21,675,681	819,315	22,494,996	17,315,428	76.97%
86.92%	C. & E. I.	19,381,436	383,837	19,765,273	17,155,977	86.80%
85.30%	C. & N. W.	103,516,754	4,639,178	108,155,932	85,207,997	78.78%
70.77%	C. B. & Q.	119,773,873	4,405,362	124,179,235	88,235,766	71.06%
71.09%	C. G. W.	18,764,368	577,090	19,341,458	14,919,937	77.14%
77.30%	C. M. & St. P.	120,070,603	5,013,075	125,083,678	91,228,812	72.93%
80.65%	C. St. P. M. & O.	20,019,002	444,332	20,463,334	16,495,885	80.61%
77.54%	D. S. S. & A.	4,238,378	207,695	4,446,073	3,379,487	76.02%
75.94%	E. J. & E.	19,615,996	1,905,278	21,521,274	15,287,842	71.04%
72.68%	G. B. & W.	1,260,305	39,880	1,300,185	899,482	69.18%
72.80%	I. C.	115,048,063	3,179,729	118,227,792	87,527,540	74.03%
83.72%	L. S. & Ishpeming	1,552,327	176,355	1,728,682	1,182,421	68.40%
	M. & St. L.	12,834,316	245,904	13,080,220	11,787,328	90.12%
74.60%						
79.95%	M. St. P. & S. S. M.	37,349,105	788,137	38,137,242	27,670,407	72.55%
87.21%	Q. O. & K. C.	702,609	8,090	710,699	722,880	101.71%
75.92%	Wabash	51,546,110	1,786,762	53,332,872	39,112,410	73.34%
80.27%						
87.51%						
83.88%						
82.60%						
83.94%						
87.64%						
80.35%	Total	$891,899,051	$29,833,100	$921,732,151	$684,679,189	74.28%
79.74%	Total Excl. A. T. S. F. & C. R. I. & P.	667,348,926	24,620,019	691,968,945	518,129,599	74.88%

Passenger Service Train Earnings, Passenger Operating Expenses, and Ratio of Passenger Operating Expenses to Passenger Service T

Carriers in Southwestern Territory

Road	Passenger revenue	Miscl. passenger train earnings	Total passenger train earnings	Passenger operating expenses	Passgr. operating ratio
(1)	(2)	(3)	(4)	(5)	(6)
A. T. S. F. (Inc. G. C. & S. F. & P. S. F.)	$48,154,636	$15,321,287	$63,475,923	$49,233,649	77.56%
C. R. I. P. (Inc. C. R. I. & G.)	25,886,047	7,707,406	33,593,453	29,258,181	87.09%
Ft. W. & D. C.	2,231,245	533,204	2,764,449	1,628,410	58.91%
Ft. S. & W.	245,568	76,538	322,106	354,207	109.97%
Gulf Coast Lines	2,078,693	689,888	2,768,581	2,416,254	87.27%
I. & G. N.	2,600,576	997,939	3,598,515	3,540,163	98.38%
K. C. M. & O. (Inc. K. C. M. & O. of T.)	262,248	131,586	393,834	552,144	140.20%
K. C. C. S. (Inc. T. & Ft. S.)	2,054,819	782,720	2,837,539	3,017,385	106.34%
K. O. & G.	117,629	45,925	163,554	294,289	179.93%
La. & Ark.	390,598	79,235	469,833	567,768	120.84%
L. Ry. & N. Co. (Inc. L. Ry. & N. Co. of T.)	438,990	160,024	599,014	1,123,037	187.48%
Mid. Val.	625,453	108,886	735,339	609,837	83.05%
M. & N. A.	237,710	91,857	329,567	350,384	106.32%
M. K. T. (Inc. M. K. T. of T. and W. F. & N. W.)	10,457,071	3,553,684	14,010,755	12,140,419	86.65%
Mo. Pac.	17,525,200	6,731,988	24,257,188	24,316,424	100.24%
St. L. S. F. (Inc. St. L. S. F. & T. and Ft. W. & R. G.)	18,477,528	4,457,725	22,935,253	16,829,059	73.38%
St. L. S. W. (Inc. St. L. S. W. of T.)	1,918,929	1,147,070	3,065,999	4,394,510	143.33%
S. A. & A. P.	879,075	363,746	1,242,821	1,515,191	121.92%
S. A. U. & G.	240,713	121,970	362,683	381,632	105.22%
Sou. Pac. (Tex. & La.)	13,185,703	3,274,296	16,459,999	13,463,161	81.79%
T. & P.	7,150,275	2,211,883	9,362,158	7,200,060	76.91%
T. & B. V.	226,494	62,349	288,843	435,787	150.87%
V. S. & P.	1,013,246	217,077	1,230,323	997,157	81.50%
Wich. Val.	314,218	94,481	408,699	306,433	74.98%
Total	$158,712,664	$48,962,764	$205,675,428	$174,925,541	85.05%
Total, Excl. A. T. S. F. & C. R. I. P.	89,185,009	27,892,292	117,077,301	103,768,767	88.63%

enger Service Train Earnings, for Class I Carriers in Southwestern and Western Trunk Line Territories, for the Year Ended December 31, 1924

Carriers in Western Trunk Line Territory

Passgr. operating ratio (6)	Road (7)	Passenger revenue (8)	Misel. passenger train earnings (9)	Total passenger train earnings (10)	Passenger operating expenses (11)	Passgr. operating ratio (12)
77.56%	A. T. & S. F.	$42,562,564	$13,725,733	$56,288,297	$43,085,525	76.54%
87.09%	C. R. I. & P.	24,965,091	7,344,739	32,309,830	28,071,249	86.88%
58.91%	C. & A.	6,431,465	1,927,569	8,359,034	6,578,041	78.69%
109.97%	C. & E. I.	4,672,601	1,630,915	6,303,516	5,297,279	84.04%
87.27%	C. & N. W.	28,872,665	12,425,997	41,298,652	35,328,648	85.54%
98.38%	C. B. & Q.	26,522,642	11,973,001	38,495,643	31,722,968	82.41%
140.20%	C. G. W.	3,909,610	1,475,610	5,385,220	5,318,474	98.76%
106.34%	C. M. & St. P.	21,768,171	11,514,609	33,282,780	34,321,248	103.12%
79.93%	C. St. P. M. & O.	5,709,096	1,743,306	7,452,402	5,693,939	76.40%
120.84%	D. S. S. & A.	1,125,739	330,317	1,456,056	1,406,938	96.63%
37.48%	E. J. & E.	513	.....	513	.....	.....
33.05%	G. B. & W.	146,816	50,685	197,501	247,629	125.38%
96.32%	I. C.	25,335,815	8,147,942	33,483,757	30,317,192	90.54%
36.65%	L. S. & Ishpeming	52,356	23,577	75,933	161,090	212.15%
	M. & St. L.	1,414,677	602,229	2,016,906	2,759,664	136.83%
90.24%						
73.38%	M. St. P. & S. S. M.	6,575,906	3,232,212	9,808,118	9,143,447	93.22%
83.33%	Q. O. & K. C.	244,796	96,310	341,106	401,653	117.75%
91.92%	Wabash	9,328,465	3,119,592	12,448,057	11,186,008	89.86%
95.22%						
91.79%						
96.91%						
90.87%						
91.50%						
94.98%						
95.05%	Total	$209,638,978	$79,364,343	$289,003,321	$251,040,992	86.86%
88.63%	Total, Excl. A. T. S. F. & C. R. I. P.	142,111,323	58,293,871	200,405,194	179,884,218	89.76%

Summary Comparing the Freight Earnings and Freight Operating Expenses per Ton Mile for Class I Carriers in Southwestern and Western Trunk Line Territories for the Years Ended December 31, 1923, and 1924

	Year 1923		Year 1924		Years 1923 and 1924 Combined	
	Railways in S. W. Territory	Railawys in W. T. L. Territory	Railways in S. W. Territory	Railways in W. T. L. Territory	Railways in S. W. Territory	Railways in W. T. L. Territory
Including A., T. & S. F. Ry. and C. R. I. &P. Ry. in Both Southwestern Territory and Western Trunk Line Territory						
Freight Earnings, Including Miscellaneous Freight Earnings	$634,348,826	$974,985,514	$664,005,734	$921,732,151	$1,298,354,560	$1,896,717,665
Freight Operating Expenses	481,820,838	750,309,037	473,738,139	684,679,189	955,558,977	1,434,988,226
Tons Carried One Mile (Thousands)	46,447,799	86,219,876	50,078,509	81,685,850	96,526,308	167,905,726
Freight Earnings, Including Miscellaneous Freight Earnings per Ton Mile	1.366c	1.131c	1.326c	1.128c	1.345c	1.130%
Freight Operating Expenses per Ton Mile	1.037c	.870c	.946c	.838c	.990c	.855%
Excluding A., T. & S. F. Ry. and C., R. I. & P. Ry. from Both Southwestern Territory and Western Trunk Line Territory						
Freight Earnings, Including Miscellaneous Freight Earnings	$401,037,505	$741,674,193	$434,242,528	$691,968,945	$835,280,033	$1,433,643,138
Freight Operating Expenses	306,470,637	574,958,836	307,188,549	518,129,599	613,695,186	1,093,088,435
Tons Carried One Mile (Thousands)	29,376,825	69,148,902	32,570,574	64,177,915	61,947,399	133,326,817
Freight Earnings, Including Miscellaneous Freight Earnings per Ton Mile	1.365c	1.073c	1.333c	1.078c	1.348c	1.075c
Freight Operating Expenses per Ton Mile	1.043c	.831	.943c	.807c	.991c	.820c

[fol. 671]

Freight Earnings and Freight Operating Expenses per Ton Mile for Class I Carriers in Southwestern and Western Trunk Line Territories, for the Year Ended December 31, 1923

Carriers in Southwestern Territory

Road (1)	Freight traffic: Earnings incl. miscl. freight earnings (2)	Operating expenses (3)	Tons one mile (thousands) (4)	Earnings per ton one mile (cents) (5)	Operating expenses per ton one mile (cents) (6)
A. T. S. F. (Inc. G. C. S. F. & P. & S. F.)	$169,850,414	$123,982,503	$12,323,209	1.378	1.006
C. R.I. & P. (Inc. C. R. I. & G.)	95,156,029	76,129,105	7,475,439	1.273	1.018
Ft. W. & D. C.	6,988,262	4,933,342	469,002	1.490	1.052
Ft. S. & W.	1,211,643	1,002,879	64,508	1.878	1.555
Gulf Coast Lines	8,940,083	4,879,787	602,635	1.483	.810
I. & G. N.	12,148,097	9,064,035	677,806	1.792	1.337
K. C. M. & O. (Inc. K. C. M. & O. of T.)	3,286,984	2,894,984	244,368	1.345	1.185
K. C. S. (Inc. T. & Ft. S.)	19,259,534	13,743,593	1,684,014	1.144	.816
K. O. & G.	2,295,107	1,684,298	165,035	1.391	1.021
La. & Ark.	3,302,653	1,976,103	208,366	1.585	.948
L. Ry. & N. Co. (Inc. L. Ry. & N. Co. of T.)	4,247,168	3,134,063	280,255	1.515	1.118
Mid. Val.	3,609,296	2,311,757	181,091	1.993	1.277
M. & N. A.	1,156,427	868,322	43,335	2.669	2.004
M. K. T. (Inc. M. K. T. of T. & W. F. & N. W.)	40,772,388	30,178,188	2,789,306	1.462	1.082
Mo. Pac.	89,092,223	72,816,835	7,416,476	1.201	.982
St. L.-S. F. (Inc. St. L.-S. F. & T. & Ft. W. & R. G.)	63,809,803	47,824,552	4,431,912	1.440	1.079
St. L. S. W. (Inc. St. L. S. W. of T.)	25,136,012	17,576,406	1,697,769	1.481	1.035
S. A. & A. P.	5,175,944	3,996,995	217,756	2.377	1.836
S. A. U. & G.	884,448	586,135	34,901	2.534	1.679
Sou. Pac. (Tex. & La.)	47,678,912	39,961,800	3,639,360	1.310	1.098
T. & P.	22,952,946	17,364,692	1,419,938	1.616	1.223
T. & B. V.	3,199,717	2,156,889	183,797	1.741	1.174
V. S. & P.	3,028,960	2,168,288	165,461	1.831	1.310
Wich. Val.	1,166,665	585,287	32,060	3.639	1.826
Total	$634,348,826	$481,820,838	$46,447,799	1.366	1.037
Total, Excl. A. T. & S. F. & C. R. I. & P.	$401,037,505	$308,470,637	$29,376,825	1.365	1.043

Carriers in Western Trunk Line Territory

Road (7)	Freight traffic: Earnings incl. miscl. freight earnings (8)	Operating expenses (9)	Tons one mile (thousands) (10)	Earnings per ton one mile (cents) (11)	Operating expenses per ton one mile (cents) (12)
A. T. & S. F.	$142,695,563	$102,802,444	$9,889,483	1.443	1.040
C. R. I. & P.	90,615,758	72,547,757	7,181,491	1.262	1.010
C. & A.	24,823,336	18,474,210	2,436,637	1.019	.758
C. & E. I.	21,682,986	19,018,262	2,304,817	.941	.825
C. & N. W.	117,945,648	94,503,162	9,248,615	1.275	1.022
C. B. & Q.	131,262,758	101,617,299	12,690,384	1.034	.801
C. G. W.	19,864,646	15,990,596	1,969,074	1.009	.812
C. M. & St. P.	133,369,055	100,636,821	11,922,244	1.119	.844
C. St. P. M. & O.	20,529,793	17,552,657	1,612,952	1.273	1.088
D. S. S. & A.	4,323,652	3,227,554	305,992	1.413	1.055
E. J. & E.	27,539,184	18,483,534	1,959,289	1.406	.943
G. B. & W.	1,112,721	856,914	66,434	1.675	1.290
I. C.	130,593,258	102,570,478	15,069,986	.867	.681
L. S. & Ishpeming	1,275,785	726,777	43,002	2.967	1.695
M. & St. L.	14,308,330	11,570,529	1,276,675	1.121	.906
M. St. P. S. S. M.	38,462,396	28,186,752	3,515,132	1.094	.802
Q. O. & K. C.	881,599	901,985	54,457	1.619	1.656
Wabash	53,699,046	40,639,306	4,673,212	1.149	.870
Total	$974,985,514	$750,309,037	$86,219,876	1.131	.870
Total, Excl. A. T. & S. F. & C. R. I. & P.	$741,674,193	$574,958,836	$69,148,902	1.073	.831

Freight Earnings and Freight Operating Expenses per Ton Mile for Class I Carriers in Southwestern and West

Carriers in Southwestern Territory

Road (1)	Freight traffic: Earnings incl. miscl. freight earnings (2)	Operating expenses (3)	Tons one mile (thousands) (4)	Earnings per ton one mile (cents) (5)	Operating expenses per ton one mile (cents) (6)
A. T. S. F. (Inc. G. C. F. S. & P. & S. F.)	$171,935;029	$121,081,159	$13,080,878	1.314	.926
C. R. I. & P. (Inc. C. R. I. & G.)	97,287,058	71,948,367	7,853,201	1.239	.916
Ft. W. & D. C.	8,405,857	5,070,947	564,420	1.489	.898
Ft. S. & W.	1,587,012	1,062,011	73,218	2.168	1.450
Gulf Coast Lines	11,218,226	6,204,212	791,898	1.417	.783
I. & G. N.	13,302,933	9,415,077	721,964	1.842	1.304
K. C. M. & O. (Inc. K. C. M. & O. of T.)	4,634,805	3,758,572	346,202	1.339	1.086
K. C. S. (Inc. T. & Ft. S.)	18,186,474	12,239,143	1,542,245	1.179	.794
K. O. & G.	2;021,035	1,629,997	140,315	1.440	1.162
La. & Ark.	3,560,486	2,404,604	235,741	1.510	1.020
L. Ry. & N. Co. (Inc. L. Ry. & N. Co. of T.)	4,890,698	3,713,974	354,421	1.380	1.048
Mid. Val.	3,801,501	2,382,759	212,071	1.793	1.124
M. & N. A.	1,257,537	1,041,209	57,751	2.178	1.803
M. K. T. (Inc. M. K. T. of T. & W. F. & N. W.)	43,298,590	27,591,615	3,068,948	1.411	.899
Mo. Pac.	99,390,535	74,149,942	8,773,081	1.133	.845
St. L.-S. F. (Inc. St. L. S. F. & T. & Ft. W. & R. G.)	66,635,866	46,610,922	4,705,560	1.416	.991
St. L. S. W. (Inc. St. L. S. W. of T.)	23,260,292	15,633,403	1,423,436	1.634	1.098
S. A. & A. P.	6,187,852	4,759,716	281,287	2.200	1.692
S. A. U. & G.	1,158,665	814,166	59,386	1.951	1.371
Sou. Pac. (Tex. & La.)	50,656,613	39,265,955	3,807,230	1.331	1.031
T. & P.	24,422,422	18,042,263	1,616,722	1.511	1.116
T. & B. V.	2,376,529	1,962,917	144,701	1.642	1.357
V. S. & P.	3,028,941	2,330,317	184,464	1.642	1.263
Wich. Val.	1,500,778	624,892	39,369	3.812	1.587
Total	$664,005,734	$473,738,139	$50,078,509	1.326	.946
Total, Excl. A. T. & S. F. & C. R. I. & P.	$434,242,528	$307,188,549	$32,570,574	1.333	.943

uthwestern and Western Trunk Line Territories, for the Year Ended December 31, 1924

Carriers in Western Trunk Line Territory

Operating expenses per ton one mile (cents) (6)	Road (7)	Freight traffic: Earnings incl. miscl. freight earnings (8)	Freight traffic: Operating expenses (9)	Freight traffic: Tons one mile (thousands) (10)	Freight traffic: Earnings per ton one mile (cents) (11)	Freight traffic: Operating expenses per ton one mile (cents) (12)
.926	A. T. & S. F.	$137,885,941	$98,056,347	$10,003,531	1.378	.980
.916	C. R. I. & P.	91,877,265	68,493,243	7,504,404	1.224	.913
.898	C. & A.	22,494,996	17,315,428	2,183,641	1.030	.793
1.450	C. & E. I.	19,765,273	17,155,977	2,211,994	.894	.776
.783	C. & N. W.	108,155,932	85,207,997	8,290,313	1.305	1.028
1.304	C. B. & Q.	124,179,235	88,235,766	12,287,748	1.011	.718
1.086	C. G. W.	19,341,458	14,919,937	1,944,029	.995	.767
.794	C. M. & St. P.	125,083,678	91,228,812	11,004,765	1.137	.829
1.162	C. St. P. M. & O.	20,463,334	16,495,885	1,638,715	1.249	1.007
1.020	D. S. S. & A.	4,446,073	3,379,487	319,694	1.391	1.057
1.048	E. J. & E.	21,521,274	15,287,842	1,504,529	1.430	1.016
1.124	G. B. & W.	1,300,185	899,482	83,244	1.562	1.081
1.803	I. C.	118,227,792	87,527,540	13,063,940	.905	.670
.899	L. S. & Ishpeming	1,728,682	1,182,421	70,073	2.467	1.687
.845	M. & St. L.	13,080,220	11,787,328	1,207,204	1.083	.976
.991	M. St. P. & S. S. M.	38,137,242	27,670,407	3,407,219	1.119	.812
1.098	Q. O. & K. C.	710,699	722,880	39,833	1.784	1.815
1.692	Wabash	53,332,872	39,112,410	4,920,974	1.084	.795
1.371						
1.031						
1.116						
1.357						
1.263						
1.587						
.946	Total	$921,732,151	$684,679,189	$81,685,850	1.128	.838
.943	Total, Excl. A. T. & S. F. & C. R. I. & P.	$691,968,945	$518,129,599	$64,177,915	1.078	.807

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Summary Comparing the Cost of Freight Station and Yard Expenses per Ton of Revenue Freight Handled of Class I Carriers in Southwestern and Western Trunk Line Territories for the Years Ended December 31, 1923, and 1924

	Year 1923		Year 1924		Years 1923 and 1924 combined	
	Railways in S. W. Territory	Railways in W. T. L. Territory	Railways in S. W. Territory	Railways in W. T. L. Territory	Railways in S. W. Territory	Railways in W. T. L. Territory
Including A., T. & S. F. Ry. and C., R. I. & P. Ry. in Both Southwestern Territory and Western Trunk Line Territory						
Freight Station and Year Expenses....	$84,710,503	$152,113,238	$85,778,868	$145,492,705	$170,489,371	$297,605,943
Tons of Revenue Freight Handled.....	203,619,976	409,051,489	216,305,715	385,475,179	419,025,691	794,526,668
Cost of Station and Yard Expenses per Ton of Revenue Freight Handled....	41.60c	37.19c	39.66c	37.74c	40.60c	37.46c
Excluding A., T. & S. F. Ry. and C. R. I. & P. Ry. from Both Southwestern Territory and Western Trunk Line Territory						
Freight Station and Yard Expenses....	$50,520,962	$117,923,697	$51,814,523	$111,528,360	$102,335,485	$229,452,057
Tons of Revenue Freight Handled.....	134,269,881	339,701,394	145,049,127	314,218,591	279,319,008	653,919,985
Cost of Station and Yard Expenses per Ton of Revenue Freight Handled....	37.63c	34.71c	35.72c	35.49c	36.64c	35.09c

Cost of Freight Station and Yard Expenses per Ton of Revenue Freight Handled for Class I Carriers in Southwestern and Western Trunk L

Carriers in Southwestern Territory

Carriers in W

Road	Freight station and yard expenses	Tons of revenue freight handled	Cost of station and yard expenses per ton of frt. handled (cents)
			(5)
A. T. & S. F. (Inc. G. C. & S. F. and P. & S. F.)	$19,730,399	39,681,166	49.72
C. R. I. & P. (Inc. C. R. I. & G.)	14,459,142	29,668,929	48.73
Ft. W. & D. C.	901,285	2,900,189	31.08
Ft. S. & W.	111,279	587,624	18.94
Gulf Coast Lines	798,673	3,774,839	21.16
I. & G. N.	2,241,829	4,170,323	53.76
K. C. M. & O. (Inc. K. C. M. & O. of T.)	280,037	1,034,086	27.08
K. C. S. (Inc. T. & Ft. S.)	2,289,805	7,046,132	32.50
K. O. & G.	285,638	1,656,447	17.24
La. & Ark.	266,680	2,202,186	12.11
L. Ry. & N. Co. (Inc. L. Ry. & N. Co. of T.)	567,740	2,296,089	24.73
Mid. Val.	352,411	2,311,544	15.25
M. & N. A.	107,503	431,279	24.93
M. K. T. (Inc. M. K. T. of T. and W. F. & N. W.)	5,054,450	11,231,232	45.00
Mo. Pac.	13,625,080	32,715,582	41.65
St. L.-S. F. (Inc. St. L. S. F. & T. and Ft. W. & R. G.)	8,580,775	23,844,147	35.99
St. L. S. W. (Inc. St. L. S. W. of T.)	2,625,465	6,365,897	41.24
S. A. & A. P.	669,686	1,608,866	41.62
S. A. U. & G.	114,666	335,562	34.17
Sou. Pac. (Tex. & La.)	7,255,184	17,154,243	42.29
T. & P.	3,539,468	8,892,982	39.80
T. & B. V.	320,595	1,308,427	24.50
V. S. & P.	474,472	2,000,530	23.72
Wichita Valley	58,241	401,675	14.50
Total	$84,710,503	203,619,976	41.60
Total, Excl. A. T. & S. F. and C. R. I. & P.	$50,520,962	134,269,881	37.63

Road
A. T. & S. F. (Inc. G. C. & S. F. and P.
C. R. I. & P. (Inc. C. R. I. & G.)
C. & A.
C. & E. I.
C. & N. W.
C. B. & Q.
C. G. W.
C. M. & St. P.
C. St. P M. & O.
D. S. S. & A.
E. J. & E.
G. B. & W.
I. C.
L. S. & Ishpeming
M. & St. L.
M. St. P. & S. S. M.
Q. O. & K. C.
Wabash
Total
Total, Excl. A. T. & S. F. and C.

n of Revenue Freight Handled for Class I Carriers in Southwestern and Western Trunk Line Territories, for the Year Ended December 31, 1923

ern Territory

Freight station and yard expenses	Tons of revenue freight handled	Cost of station and yard expenses per ton of frt. handled (cents)
$19,730,399	39,681,166	49.72
14,459,142	29,668,929	48.73
901,285	2,900,189	31.08
111,279	587,624	18.94
798,673	3,774,839	21.16
2,241,829	4,170,323	53.76
280,037	1,034,086	27.08
2,289,805	7,046,132	32.50
285,638	1,656,447	17.24
266,680	2,202,186	12.11
567,740	2,296,089	24.73
352,411	2,311,544	15.25
107,503	431,279	24.93
5,054,450	11,231,232	45.00
13,625,080	32,715,582	41.65
8,580,775	23,844,147	35.99
2,625,465	6,365,897	41.24
669,686	1,608,866	41.62
114,666	335,562	34.17
7,255,184	17,154,243	42.29
3,539,468	8,892,982	39.80
320,595	1,308,427	24.50
474,472	2,000,530	23.72
58,241	401,675	14.50
$84,710,503	203,619,976	41.60
$50,520,962	134,269,881	37.63

Carriers in Western Trunk Line Territory

Road (5)	Freight station and yard expenses (6)	Tons of revenue freight handled (7)	Cost station and ya expens per ton frt. han (cents (8)
A. T. & S. F. (Inc. G. C. & S. F. and P. & S. F.)	$19,730,399	39,681,166	49.7
C. R. I. & P. (Inc. C. R. I. & G.)	14,459,142	29,668,929	48.7
C. & A.	3,808,283	13,507,046	28.1
C. & E. I.	4,176,586	14,697,968	28.4
C. & N. W.	20,021,312	58,207,915	34.4
C. B. & Q.	19,661,630	43,483,603	45.2
C. G. W.	3,113,244	6,722,786	46.3
C. M. & St. P.	20,491,717	51,314,300	39.9
C. St. P M. & O.	3,961,671	10,511,198	37.6
D. S. S. & A.	734,693	3,901,908	18.8
E. J. & E.	5,221,608	35,291,656	14.8
G. B. & W.	119,218	782,445	15.2
I. C.	20,101,683	55,110,674	36.4
L. S. & Ishpeming	195,586	2,794,387	7.0
M. & St. L.	1,917,208	7,311,189	26.2
M. St. P. & S. S. M.	5,714,474	16,758,404	34.1
Q. O. & K. C.	117,034	566,550	20.6
Wabash	8,567,750	18,739,365	45.7
Total	$152,113,238	409,051,489	37.1
Total, Excl. A. T. & S. F. and C. R. I. & P.	$117,923,697	339,701,394	34.7

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Cost of Freight Station and Yard Expenses per Ton of Revenue Freight Handled for Class I Carriers in Southwestern and

Carriers in Southwestern Territory

Road (1)	Freight station and yard expenses (2)	Tons of revenue freight handled (3)	Cost of station and yard expenses per ton of frt. handled (cents) (4)
A. T. & S. F. (Inc. G. C. & S. F. and P. & S. F.)	$19,733,586	40,695,205	48.49
C. R. I. & P. (Inc. C. R. I. & G.)	14,230,759	30,561,383	46.56
Ft. W. & D. C.	989,967	3,402,165	29.10
Ft. S. & W.	122,478	737,977	16.60
Gulf Coast Lines	955,279	4,111,838	23.23
I. & G. N.	2,314,576	4,429,176	52.26
K. C. M. & O. (Inc. K. C. M. & O. of T.)	359,233	1,478,409	24.30
K. C. S. (Inc. T. & Ft. S.)	2,274,521	6,958,838	32.69
K. O. & G.	251,391	1,436,062	17.51
La. & Ark.	278,963	2,572,140	10.85
L. Ry. & N. Co. (Inc. L. Ry. & N. Co. of T.)	646,001	2,721,800	23.73
Mid. Val.	315,796	2,608,905	12.10
M. & N. A.	114,763	457,557	25.08
M.-K.-T. (Inc. M.-K.-T. and W. F. & N. W.)	5,067,046	11,978,114	42.30
Mo. Pac.	14,165,355	36,713,004	38.58
St. L.-S. F. (Inc. St. L. S. F. & T. and Ft. W. & R. G.)	8,580,886	24,799,301	34.62
St. L. S. W. (Inc. St. L. S. W. of T.)	2,401,935	5,901,480	40.70
T. A. & A. P.	729,030	2,298,710	31.71
T. A. U. & G.	145,198	517,071	28.08
Tou. Pac. (Tex. & La.)	7,524,288	18,911,141	39.79
T. & P.	3,670,930	9,394,609	39.07
T. & B. V.	307,627	916,595	33.56
W. S. & P.	525,891	2,233,726	23.54
Wichita Valley	73,369	480,509	15.26
Total	$85,778,868	216,305,715	39.66
Total, Excl. A., T. & S. F. and C., R. I. & P.	$51,814,523	145,049,127	35.72

A. T. & S. F. (Inc. G	
C. R. I. & P. (Inc. C	
C. & A.	
C. & E. I.	
C. & N. W.	
C. B. & Q.	
C. G. W.	
C. M. & St. P.	
C. St. P. M. & O.	
D. S. S. & A.	
E. J. & E.	
G. B. & W.	
I. C.	
L. S. & Ishpeming	
M. & St. L.	
M. St. P. & S. S. M.	
Q. O. & K. C.	
Wabash	
Total	
Total, Excl. A	

Revenue Freight Handled for Class I Carriers in Southwestern and Western Trunk Line Territories for the Year Ended December 31, 1924

ht n rd ses	Tons of revenue freight handled (3)	Cost of station and yard expenses per ton of frt. handled (cents) (4)	Carriers in Western Trunk Line Territory — Road (5)	Freight station and yard expenses (6)	Tons of revenue freight handled (7)	Cost of station and Yard expenses per ton of frt. handled (cents) (8)
,586	40,695,205	48.49	A. T. & S. F. (Inc. G. C. & S F. and P. & S. F.)	$19,733,586	40,695,205	48.49
,759	30,561,383	46.56	C. R. I. & P. (Inc. C. R. I. & G.)	14,230,759	30,561,383	46.56
,967	3,402,165	29.10	C. & A	3,859,104	12,616,257	30.59
,478	737,977	16.60	C. & E. I	4,035,128	13,387,224	30.14
,279	4,111,838	23.23	C. & N. W	18,744,978	52,158,316	35.94
,576	4,429,176	52.26	C. B. & Q	18,051,456	42,778,294	42.20
,233	1,478,409	24.30	C. G. W	3,073,656	6,587,565	46.66
,521	6,958,838	32.69	C. M. & St. P	19,431,857	47,143,747	41.22
,391	1,436,062	17.51	C. St. P. M. & O	3,888,499	10,567,741	36.80
,963	2,572,140	10.85	D. S. S. & A	746,498	4,273,860	17.47
,001	2,721,800	23.73	E. J. & E	4,679,528	29,558,259	15.83
,796	2,608,905	12.10	G. B. & W	131,261	890,880	14.73
,763	457,557	25.08	I. C	18,563,019	49,040,926	37.85
,046	11,978,114	42.30	L. S. & Ishpeming	254,042	2,986,686	8.51
,355	36,713,004	38.58	M. & St. L	1,835,697	6,642,929	27.63
,886	24,799,301	34.62	M. St. P. & S. S. M	5,354,019	15,820,453	35.11
,935	5,901,480	40.70	Q. O. & K. C	88,709	475,649	18.65
,030	2,298,710	31.71	Wabash	8,590,909	19,289,805	44.54
,198	517,071	28.08				
,288	18,911,141	39.79				
,930	9,394,609	39.07				
,627	916,595	33.56				
,891	2,233,726	23.54				
,369	480,509	15.26				
,868	216,305,715	39.66	Total	$145,492,705	385,475,179	37.74
,523	145,049,127	35.72	Total, Excl. A., T. & S. F. and C. R. I. & P.	$111,528,360	314,218,591	35.49

[fol. 676]

Summary Comparing the Tons of One Mile of Revenue Freight per Mile of Road for Class I Carriers in Southwestern and Western Trunk Line

Ended December 31, 1916, 1917, 1921, 1922, 1923 and 1924

Year	Carriers in Southwestern Territory			Year	Carriers in Western Trunk Line Terri		
	Average miles of road operated	Tons of Revenue freight carried one mile (thousands)	Tons one mile per mile of road		Average miles of road operated	Tons of revenue freight carried one mile (thousands)	Tons one mi per mile o road
Including A., T. & S. F. Ry. and C., R. I. & P. Ry. in Both Southwestern Territory and Western Trunk Line Territor							
1916	50,992.76	40,040,114	785,212	1916	64,804.89	73,395,121	1,132,
1917	51,024.05	45,763,135	896,893	1917	64,976.41	82,760,582	1,273,
1921	51,127.03	40,355,183	789,312	1921	65,334.42	66,975,812	1,025,
1922	51,037,91	40,624,889	795,975	1922	65,465.55	76,390,837	1,166,
1923	50,963.94	46,447,799	911,386	1923	65,640.23	86,219,876	1,313,
1924	51,036.30	50,078,509	981,233	1924	65,866.32	81,685,850	1,240,
Average of 6 years	51,030.33	43,884,938	859,978	Average of 6 years	65,347.97	77,904,680	1,192,
Excluding A., T. & S. F. Ry. and C. R. I. & P. Ry. from Both Southwestern Territory and Western Trunk Line Territ							
1916	34,743.88	24,779,329	713,775	1916	48,556.01	58,154,336	1,197,
1917	34,637.18	28,164,130	813,118	1917	48,589.54	65,161,577	1,341,
1921	34,631.72	25,980,692	750,119	1921	48,389.11	52,601,321	1,077,
1922	34,525.70	25,237,378	730,974	1922	48,953.34	61,003,326	1,246,
1923	34,371.84	29,376,825	854,677	1923	49,048.13	69,148,902	1,409,
1924	34,355.23	32,570,574	948,053	1924	49,185.25	64,177,915	1,304,
Average of 6 years	34,544.26	27,688,155	801,527	Average of 6 years	48,861.90	61,707,896	1,262,

ns of One Mile of Revenue Freight per Mile of Road for Class I Carriers in Southwestern and Western Trunk Line Territories, for the Years Ended December 31, 1916, 1917, 1921, 1922, 1923 and 1924

Carriers in Southwestern Territory				Carriers in Western Trunk Line Territory				
Average miles of road operated	Tons of Revenue freight carried one mile (thousands)	Tons one mile per mile of road	Year	Average miles of road operated	Tons of revenue freight carried one mile (thousands)	Tons one mile per mile of road	Increase in tons one mile per mile of road, Western Trunk Line Territory, over Southwestern Territory	
							Amount	Per cent
uding A., T. & S. F. Ry. and C., R. I. & P. Ry. in Both Southwestern Territory and Western Trunk Line Territory								
50,992.76	40,040,114	785,212	1916	64,804.89	73,395,121	1,132,255	347,343	44.24%
51,024.05	45,763,135	896,893	1917	64,976.41	82,760,582	1,273,702	376,809	42.01%
51,127.03	40,355,183	789,312	1921	65,334.42	66,975,812	1,025,123	235,811	29.88%
51,037,91	40,624,889	795,975	1922	65,465.55	76,390,837	1,166,886	370,911	46.60%
50,963.94	46,447,799	911,386	1923	65,640.23	86,219,876	1,313,522	402,136	44.12%
51,036.30	50,078,509	981,233	1924	65,866.32	81,685,850	1,240,176	258,943	26.39%
51,030.33	43,884,938	859,978	Average of 6 years	65,347.97	77,904,680	1,192,151	332,173	38.63%
ding A., T. & S. F. Ry. and C. R. I. & P. Ry. from Both Southwestern Territory and Western Trunk Line Territory								
34,743.88	24,779,329	713,775	1916	48,556.01	58,154,336	1,197,675	483,900	67.79%
34,637.18	28,164,130	813,118	1917	48,589.54	65,161,577	1,341,062	527,944	64.93%
34,631.72	25,980,692	750,119	1921	48,389.11	52,601,321	1,077,033	326,834	43.57%
34,525.70	25,237,378	730,974	1922	48,953.34	61,003,326	1,246,152	515,178	70.48%
34,371.84	29,376,825	854,677	1923	49,048.13	69,148,902	1,409,817	555,140	64.95%
34,355.23	32,570,574	948,053	1924	49,185.25	64,177,915	1,304,820	356,767	37.63%
34,544.26	27,688,155	801,527	Average of 6 years	48,861.90	61,707,896	1,262,904	461,377	57.56%

Tons One Mile of Revenue Freight per Mile of Road for Class I Carriers in Southwestern and Western Trunk Carriers in Southwestern Territory

Road (1)	Average miles of road operated (2)	Tons of revenue freight carried one mile (thousands) (3)	Tons one mile per mile of road (4)
A. T. & S. F. (Inc. G. C. & S. F. & P. & S. F.)	11,244.40	11,119,143	988,860
C. R. I. & P. (Inc. C. R. I. & G.)	8,090.40	6,427,424	794,451
Ft. W. & D. C	454.14	464,378	1,022,544
Ft. S. & W	253.65	41,809	164,829
Gulf Coast Lines	897.64	329,954	367,579
I. & G. N	1,159.50	719,621	620,630
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.87	185,665	251,623
K. C. S. (Inc. T. & Ft. S.)	842.73	1,172,356	1,391,141
K. O. & G	332.36	165,233	497,151
La. & Ark	278.72	120,329	431,720
L. Ry. & N. Co	349.18	160,377	459,296
Mid. Val	383.02	122,339	319,406
M. & N. A	365.24	59,896	163,991
M. K. & T. (Inc. M. K. & T. of T. and W. F. & N. W.)	3,865.02	2,413,801	624,525
Mo. Pac	7,437.26	6,833,079	918,763
St. L.-S. F. (Inc. St. L. S. F. & T.) and Ft. W. & R. G	5,231.11	3,694,023	706,164
St. L.-S. W. (Inc. St. L. S. W. of T.)	1,753.83	956,572	545,419
S. A. & A. P	732.65	177,677	242,513
S. A. U. & G	317.26	22,135	69,769
Sou. Pac. (Tex. & La.)	3,534.70	3,145,083	889,774
T. & P	1,946.50	1,521,020	781,413
T. & B. V	357.21	72,329	202,483
V. S. & P	171.47	88,414	515,624
Wich. Val	256.90	27,457	106,878
Total	50,992.76	40,040,114	785,212
Total, Excl. A., T. & S. F. & C. R. I. & P	34,743.88	24,799,329	713,775

A. T. & S. F	
C. R. I. & P	
C. & A	
C. & E. I	
C. & N. W	
C. B. & Q	
C. G. W	
C. M. & St. P	
C. St. P. M. & O	
D. S. S. & A	
E. J. & E	
G. B. & W	
I. C	
L. S. & Ishpeming	
M. & St. L	
M. St. P. & S. S. M	
Q. O. & K. C	
Wabash	
Total	
Total, Excl. A	

Road for Class I Carriers in Southwestern and Western Trunk Line Territories for the Year Ended December 31, 1916.

Carriers in Western Trunk Line Territory

Tons of revenue freight carried one mile (thousands) (3)	Tons one mile per mile of road (4)	Road (5)	Average miles of road operated (6)	Tons of revenue freight carried one mile (thousands) (7)	Tons one mi per mil of roa (8)
11,119,143	988,860	A. T. & S. F.	8,636.42	9,050,401	1,047
6,427,424	794,451	C. R. I. & P.	7,612.46	6,190,384	813
464,378	1,022,544	C. & A.	1,052.65	2,024,046	1,922
41,809	164,829	C. & E. I.	1,160.62	2,346,826	2,022
329,954	367,579	C. & N. W.	8,423.55	8,171,659	970
719,621	620,630	C. B. & Q.	9,370.39	10,923,326	1,165
185,665	251,623	C. G. W.	1,490.22	1,716,360	1,151
1,172,356	1,391,141	C. M. & St. P.	10,196.25	10,747,323	1,054
165,233	497,151	C. St. P. M. & O.	1,752.81	1,714,280	978
120,329	431,720	D. S. S. & A.	602.42	295,526	490
160,377	459,296	E. J. & E.	797.36	1,953,647	2,450
122,339	319,406	G. B. & W.	252.70	56,668	224
59,896	163,991	I. C.	4,766.79	9,156,871	1,920
2,413,801	624,525	L. S. & Ishpeming	34.04	50,926	1,496
6,833,079	918,763	M. & St. L.	1,646.75	1,060,813	644
		M. St. P. & S. S. M.	4,228.11	3,438,077	813
3,694,023	706,164				
956,572	545,419	Q. O. & K. C.	262.29	57,127	217
177,677	242,513	Wabash	2,519.06	4,440,861	1,762
22,135	69,769				
3,145,083	889,774				
1,521,020	781,413				
72,329	202,483				
88,414	515,624				
27,457	106,878				
40,040,114	785,212	Total	64,804.89	73,395,121	1,132
24,799,329	713,775	Total, Excl. A. T. & S. F. & C. R. I. & P.	48,556.01	58,154,336	1,197

[fol. 678]

Tons One Mile of Revenue Freight per Mile of Road for Class I Carriers in Southwestern and Western Trunk

Carriers in Southwestern Territory

Road (1)	Average miles of road operated (2)	Tons of revenue freight carried one mile (thousands) (3)	Tons one mile per mile of road (4)	
A. T. & S. F. (Inc. G. C. & S. F. & P. & S. F.)	11,269.32	12,888,590	1,143,688	A. T. & S. F.
C. R. I. & P (Inc. C. R. I. & G.)	8,219.36	7,076,007	860,895	C. R. I. & P.
Ft. W. & D. C.	454.14	439,516	967,798	C. & A.
Ft. S. & W.	253.65	51,346	202,429	C. & E. I.
Gulf Coast Lines	858.15	362,697	422,650	C. & N. W.
I. & G. N.	1,159.50	751,526	648,147	C. B. & Q.
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.87	217,997	295,441	C. G. W.
K. C. S. (Inc. T. & Ft. S.)	861.73	1,432,559	1,662,422	C. M. & St. P.
K. O. & G.	332.00	196,015	590,407	C. St. P. M. & O.
La. & Ark.	302.34	97,100	321,162	D. S. S. & A.
L. Ry. & N. Co.	352.37	149,828	425,201	E. J. & E.
Mid. Val.	383.66	199,112	518,980	G. B. & W.
M. & N. A.	365.24	69,269	189,653	I. C.
M. K. & T. (Inc. M. K. & T. of T. and W. F. & N. W.)	3,866.31	2,986,316	772,394	L. S. & Ishpeming
Mo. Pac.	7,325.41	7,779,770	1,062,025	M. & St. L.
				M. St. P. & S. S. M.
t. L.-S. F. (Inc. St. L. S. F. & T. and Ft. W. & R. G.)	5,181.17	3,960,644	764,430	
t. L.-S. W. (Inc. St. L. S. W. of T.)	1,753.50	1,270,839	724,744	Q. O. & K. C.
. A. & A. P.	726.25	174,210	239,876	Wabash
. A. U. & G.	317.26	22,860	72,054	
ou. Pac. (Tex. & La.)	3,561.15	3,956,430	1,110,998	
. & P.	1,946.50	1,480,535	760,614	
. & B. V.	368.80	67,392	182,733	
. S. & P.	171.47	108,527	632,921	
ich. Val.	256.90	24,050	93,616	
Total	51,024.05	45,763,135	896,893	Total
Total, Excl. A., T. & S. F. & C., R. I. & P.	34,637.18	28,164,130	813,118	Total, Excl. A.

Road for Class I Carriers in Southwestern and Western Trunk Line Territories for the Year Ended December 31, 1917

Tons of revenue freight carried one mile (thousands)	Tons one mile per mile of road	Road	Average miles of road operated	Tons of revenue freight carried one mile (thousands)	Tons one mile per mile of road
		Carriers in Western Trunk Line Territory			
(3)	(4)	(5)	(6)	(7)	(8)
12,888,590	1,143,688	A. T. & S. F.	9,642.32	10,789,600	1,248,461
7,076,007	860,895	C. R. I. & P.	7,744.55	6,809,405	879,251
439,516	967,798	C. & A.	1,052.65	2,396,078	2,276,234
51,346	202,429	C. & E. I.	1,131.39	3,062,989	2,707,280
362,697	422,650	C. & N. W.	8,423.80	9,270,929	1,100,564
751,526	648,147	C. B. & Q.	9,373.38	13,143,186	1,402,182
217,997	295,441	C. G. W.	1,496.06	1,639,675	1,095,995
1,432,559	1,662,422	C. M. & St. P.	10,256.53	10,545,443	1,028,169
196,015	590,407	C. St. P. M. & O.	1,749.33	1,678,231	959,356
97,100	321,162	D. S. S. & A.	600.82	343,513	571,740
149,828	425,201	E. J. & E.	802.99	2,183,852	2,719,650
199,112	518,980	G. B. & W.	253.80	48,979	192,983
69,269	189,653	I. C.	4,766.04	11,230,070	2,356,269
2,986,316	772,394	L. S. & Ishpeming	34.04	44,987	1,321,592
7,779,770	1,062,025	M. & St. L.	1,646.75	1,119,921	680,080
		M. St. P. & S. S. M.	4,227.81	3,611,369	854,194
3,960,644	764,430				
1,270,839	724,744	Q. O. & K. C.	255.09	56,980	223,372
174,210	239,876	Wabash	2,519.96	4,785,375	1,899,667
22,860	72,054				
3,956,430	1,110,998				
1,480,535	760,614				
67,392	182,733				
108,527	632,921				
24,050	93,616				
45,763,135	896,893	Total	64,976.41	82,760,582	1,273,702
28,164,130	813,118	Total, Excl. A., T. & S. F. & C., R. I. & P.	48,589.54	65,161,577	1,341,062

Tons One Mile of Revenue Freight per Mile of Road for Class I Carriers in Southwestern and Western Trunk Li

Carriers in Southwestern Territory

Road	Average miles of road operated	Tons of revenue freight carried one mile (thousands)	Tons one mile per mile of road
(1)	(2)	(3)	(4)
A. T. & S. F. (Inc. G. C. & S. F. and P. & S. F)	11,599.03	10,365,967	893,693
C. R. I. & P (Inc. C. R. I. & G.)	8,122.83	6,857,673	844,247
Ft. W. & D. C	454.14	518,156	1,140,961
Ft. S. & W	249.75	54,346	217,602
Gulf Coast Lines	860.19	486,563	565,646
I. & G. N	1,159.50	736,286	635,003
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.95	191,460	259,448
K. C. S. (Inc. T. & Ft. S.)	863.15	1,553,509	1,799,813
K. O. & G	317.29	125,626	395,934
La. & Ark	302.34	145,526	481,332
L. Ry. & N. Co	343.67	169,577	493,430
Mid. Val	365.88	162,365	443,766
M. & N. A	364.57	22,142	60,735
M.-K.-T. (Inc. M.-K.-T. of T. and W. F. & N. W.)	3,783.69	2,761,318	729,795
Mo. Pac	7,300.36	6,432,331	881,098
St. L.-S. F. (Inc. St. L. S. F. & T. and Ft. W. & R. G.)	5,130.58	3,495,497	681,306
St. L. S. W. (Inc. St. L. S. W. of T.)	1,775.97	1,296,386	729,955
S. A. & A. P	739.36	215,395	291,326
S. A. U. & G	317.26	25,095	79,099
Sou. Pac. (Tex. & La.)	3,592.27	2,941,655	818,885
T. & P	1,951.14	1,393,435	714,165
T. & B. V	368.80	204,409	554,254
V. S. & P	171.44	162,842	949.848
Wich. Val	255.86	37,624	147,049
Total	51,127.03	40,355,183	789,312
Total, Excl. A., T. & S. F. and C., R. I. & P	34,631.72	25,980,692	750,199

Road	Average miles of road operated	Tons of revenue freight carried one mile (thousands)	Tons one mile per mile of road
A. T. & S. F			
C. R. I. & P			
C. & A			
C. & E. I			
C. & N. W			
C. B. & Q			
C. G. W			
C. M. & St. P			
C. St. P. M. & O			
D. S. S. & A			
E. J. & E			
G. B. & W			
I. C			
L. S. & Ishpeming			
M. & St. L			
M. St. P. & S. S. M			
Q. O. & K. C			
Wabash			
Total			
Total, Excl. A., T			

Road for Class I Carriers in Southwestern and Western Trunk Line Territories, for the Year Ended December 31, 1921.

Tons of revenue freight carried one mile (thousands)	Tons one mile per mile of road	Road	Average miles of road operated	Tons of revenue freight carried one mile (thousands)	Tons one mile per mile of road
		Carriers in Western Trunk Line Territory			
(3)	(4)	(5)	(6)	(7)	(8)
10,365,967	893,693	A. T. & S. F.	8,833.70	7,871,009	891,021
6,857,673	844,247	C. R. I. & P.	7,661.61	6,503,482	848,840
518,156	1,140,961	C. & A.	1,050.51	2,055,114	1,956,301
54,346	217,602	C. & E. I.	1,130.81	1,970,341	1,742,416
486,563	565,646	C. & N. W.	8,402.28	6,775,908	806,437
736,286	635,003	C. B. & Q.	9,393.07	10,554,788	1,123,678
191,460	259,448	C. G. W.	1,496.06	1,550,485	1,036,379
1,553,509	1,799,813	C. M. & St. P.	10,808.63	8,283,212	766,352
125,626	395,934	C. St. P. M. & O.	1,749.19	1,345,870	769,425
145,526	481,332	D. S. S. & A.	591.80	201,427	340,363
169,577	493,430	E. J. & E.	456.59	1,288,477	2,821,956
162,365	443,766	G. B. & W.	252.39	57,062	226,087
22,142	60,735	I. C.	4,799.37	11,084,094	2,309,489
2,761,318	729,795	L. S. & Ishpeming	33.43	10,869	325,127
6,432,331	881,098	M. & St. L.	1,651.01	1,050,119	636,046
3,495,497	681,306				
1,296,386	729,955	M. St. P. & S. S. M.	4,298.09	2,429,287	565,202
215,395	291,326	Q. O. & K. C.	252.92	55,319	218,721
25,095	79,099	Wabash	2,472.96	3,888,949	1,572,589
2,941,655	818,885				
1,393,435	714,165				
204,409	554,254				
162,842	949.848				
37,624	147,049				
40,355,183	789,312	Total	65,334.42	66,975,812	1,025,123
25,980,692	750,199	Total, Excl. A., T. & S. F., and C., R. I. & P.	48,839.11	52,601,321	1,077,033

Tons One Mile of Revenue Freight per Mile of Road for Class I Carriers in Southwestern and Western Tru

Carriers in Southwestern Territory

Road	Average miles of road operated	Tons of revenue freight carried one mile (thousands)	Tons one mile per mile of road
(1)	(2)	(3)	(4)
A. T. & S. F. (Inc. G. C. & S. F. & P. & S. F.)	11,622.74	11,166,106	960,712
C. R. I. & P (Inc. C. R. I. & G.)	8,166.23	6,650,444	819,401
Ft. W. & D. C	456.31	461,679	1,011,766
Ft. S. & W	249.75	60,845	243,624
Gulf Coast Lines	860.19	514,196	597,770
I. & G. N	1,159.50	618,064	533,044
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.95	169,136	229,197
K. C. S. (Inc. T. & Ft. S.)	862.93	1,507,716	1,747,205
K. O. & G	314.45	203,031	645,670
La. & Ark	302.25	162,437	537,426
La. Ry. & N. Co	343.67	188,899	549,652
Mid. Val	365.45	176,815	483,828
M. & N. A	323.29	19,400	60,008
M. K. T. (Inc. M. K. T. of T. & W. F. N. & W.)	3,737.46	2,546,598	681,371
Mo. Pac	7,261,78	5,995,684	825,649
St. L.-S. F. (Inc. St. L. S. F. & T. & Ft. W. & R. G.)	5,130.54	3,595,725	700,847
St. L. S. W. (Inc. St. L. S. W. of T.)	1,755.98	1,535,405	864,540
S. A. & A. P	739.36	193,073	261,135
S. A. U. & G	317.26	31,919	100,608
Sou. Pac. (Tex. & La.)	3,610.98	3,175,930	879,520
T. & P	1,952.74	1,379,505	706,446
T. & B. V	368.89	116,398	315,536
V. S. & P	171.44	125,100	729,701
Wich. Val	256.77	30,784	119,889
Total	51,037.91	40,624,889	795,975
Total, Excl. A., T. & S. F. & C., R. I. & P	34,525.70	25,237,378	730,974

A. T. & S. F.	
C. R. I. & P.	
C. & A.	
C. & E. I.	
C. & N. W.	
C. B. & Q.	
C. G. W.	
C. M. & St. P.	
C. St. P. M. & O.	
D. S. S. & A.	
E. J. & E.	
G. B. & W.	
I. C.	
L. S. & Ishpeming.	
M. & St. L.	
M. St. P. & S. S. M	
Q. O. & K. C.	
Wabash	
Total	
Total, Excl.	

of Road for Class I Carriers in Southwestern and Western Trunk Line Territories, for the Year Ended December 31, 1922

Carriers in Western Trunk Line Territory

e f d	Tons of revenue freight carried one mile (thousands)	Tons one mile per mile of road	Road	Average miles of road operated	Tons of revenue freight carried one mile (thousands)	? one per of
	(3)	(4)	(5)	(6)	(7)	
4	11,166,106	960,712	A. T. & S. F.	8,857.21	9,029,371	1,0
3	6,650,444	819,401	C. R. I. & P.	7,655.00	6,358,140	8
1	461,679	1,011,766	C. & A.	1,050.51	1,802,180	1,7
5	60,845	243,624	C. & E. I.	945.13	1,871,349	1,9
9	514,196	597,770	C. & N. W.	8,403.82	7,579,554	9
0	618,064	533,044	C. B. & Q.	9,393.69	11,754,596	1,2
5	169,136	229,197	C. G. W.	1,496.06	1,729,320	1,1
8	1,507,716	1,747,205	C. M. & St. P.	11,029.86	10,601,914	9
5	203,031	645,670	C. St. P. M. & O.	1,749.19	1,479,070	8
5	162,437	537,426	D. S. S. & A.	591.30	233,524	3
7	188,899	549,652	E. J. & E.	459.22	1,461,969	3,1
5	176,815	483,828	G. B. & W.	257.46	62,022	2
9	19,400	60,008	I. C.	4,784.52	14,151,817	2,9
5	2,546,598	681,371	L. S. & Ishpeming	33.43	34,500	1,0
8	5,995,684	825,649	M. & St. L.	1,649.90	1,132,267	6
			M. St. P. & S. S. M.	4,383.57	3,115,229	7
4	3,595,725	700,847				
8	1,535,405	864,540	Q. O. & K. C.	252.72	63,218	2
6	193,073	261,135	Wabash	2,472.96	3,930,797	1,5
3	31,919	100,608				
8	3,175,930	879,520				
4	1,379,505	706,446				
	116,398	315,536				
	125,100	729,701				
	30,784	119,889				
	40,624,889	795,975	Total	65,465.55	76,390,837	1,1
	25,237,378	730,974	Total, Excl. A., T. & S. F. & C. R. I. & P.	48,953.34	61,003,326	1,2

[fol. 681]

Tons One Mile of Revenue Freight per Mile of Road for Class I Carriers in Southwestern and Western Trunk

Carriers in Southwestern Territory

Road	Average miles of road operated	Tons of revenue freight carried one mile (thousands)	Tons one mile per mile of road	
(1)	(2)	(3)	(4)	
A. T. & S. F. (Inc. G. C. & S. F. & P. & S. F.)	11,724.23	12,323,209	1,051,089	A. T. & S. F.
C. R. I. & P. (Inc. C. R. I. & G.)	8,096.34	7,475,439	923,309	C. R. I. & P.
Ft. W. & D. C.	456.31	469,002	1,027,814	C. & A.
Ft. S. & W.	249.75	64,508	258,290	C. & E. I.
Gulf Coast Lines	860.19	602,635	700,584	C. & N. W.
I. & G. N.	1,159.50	677,806	584,567	C. B. & Q.
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.95	244,368	331,144	C. G. W.
K. C. S. (Inc. T. & Ft. S.)	848.68	1,684,014	1,984,274	C. M. & St. P.
K. O. & G.	314.42	165,035	524,887	C. St. P. M. & O.
La. & Ark.	302.25	208,366	689,383	D. S. S. & A.
				E. J. & E.
L. Ry. & N. Co. (Inc. L. Ry. & N. Co. of T.)	549.75	280,255	509,786	G. B. & W.
Mid. Val.	365.31	181,091	495,719	I. C.
M. & N. A.	364.57	43,335	118,866	L. S. & Ishpeming
M. K. T. (Inc. M. K. T. of T. & W. F. & N. W.)	3,559.76	2,789,306	830,210	M. & St. L.
Mo. Pac.	7,235.72	7,416,476	1,024,981	
N. L.-S. F. (Inc. St. L. S. F. & T. & Ft. W. & R. G.)	5,120.84	4,431,912	865,466	M. St. P. & S. S. M.
N. L. S. W. (Inc. St. L. S. W. of T.)	1,775.85	1,697,769	956,032	Q. O. & K. C.
N. A. & A. P.	739.36	217,756	294,520	Wabash
N. A. U. & G.	317.26	34,901	110,008	
Nou. Pac. (Tex. & La.)	3,610.98	3,639,360	1,007,859	
O. & P.	1,952.74	1,419,938	727,152	
O. & B. V.	368.79	183,797	498,243	
O. S. & P.	184.21	165,461	898,219	
Vich. Val.	296.06	32,060	119,156	
Total	50,963.94	46,447,799	911,386	Total
Total Excl. A., T. & S. F., & C., R. I. & P.	34,371.84	29,376,825	854,677	Total Excl. A.

for Class I Carriers in Southwestern and Western Trunk Line Territories, for the Year Ended December 31, 1923.

Carriers in Western Trunk Line Territory

Tons of revenue freight carried one mile (thousands) (3)	Tons one mile per mile of road (4)	Road (5)	Average miles of road operated (6)	Tons of revenue freight carried one mile (thousands) (7)	Tons one mile per mile of road (8)
12,323,209	1,051,089	A. T. & S. F.	8,956.97	9,889,483	1,104,110
7,475,439	923,309	C. R. I. & P.	7,635.13	7,181,491	940,585
469,002	1,027,814	C. & A.	1,050.40	2,436,637	2,319,722
64,508	258,290	C. & E. I.	945.13	2,304,817	2,438,624
602,635	700,584	C. & N. W.	8,462.53	9,248,615	1,070,128
677,806	584,567	C. B. & Q.	9,401.41	12,690,384	1,349,838
244,368	331,144	C. G. W.	1,496.06	1,969,074	1,316,173
1,684,014	1,984,274	C. M. & St. P.	11,010.74	11,922,244	1,082,783
165,035	524,887	C. St. P. M. & O.	1,749.19	1,612,952	922,114
208,366	689,383	D. S. S. & A.	591.30	305,992	517,490
		E. J. & E.	459.72	1,959,289	4,261,918
280,255	509,786	G. B. & W.	234.15	66,434	283,724
181,091	495,719	I. C.	4,840.25	15,069,986	2,113,473
43,335	118,866	L. S. & Ishpeming	33.43	43,002	1,286,330
2,789,306	830,210	M. & St. L.	1,649.90	1,276,675	773,789
7,416,476	1,024,981				
4,431,912	865,466	M. St. P. & S. S. M.	4,396.49	3,515,132	799,531
1,697,769	956,032	Q. O. & K. C.	250.84	54,457	217,099
217,756	294,520	Wabash	2,476.59	4,673,212	1,886,954
34,901	110,008				
3,639,360	1,997,859				
1,419,938	727,152				
183,797	498,243				
165,461	898,219				
32,060	119,156				
46,447,799	911,386	Total	65,640.23	86,219,876	1,313,522
29,376,825	854,677	Total Excl. A. T. & S. F. & C. R. I. & P.	49,048.13	69,148,902	1,409,817

Tons One Mile of Revenue Freight per Mile of Road for Class I Carriers in Southwestern and Western Trunk Line

Carriers in Southwestern Territory

Road	Average miles of road operated	Tons of revenue freight carried one mile (thousands)	Tons one mile per mile of road
(1)	(2)	(3)	(4)
A. T. & S. F. (Inc. G. C. & S. F. and P. & S. F.)	11,836.98	13,080,878	1,105,086
C. R. I. & P. (Inc. C. R. I. & G.)	8,072.69	7,853,201	972,811
Ft. W. & D. C	456.64	564,420	1,236,028
Ft. S. & W	249.75	73,218	293,165
Gulf Coast Lines	860.19	791,898	920,608
I. & G. N	1,159.50	721,964	622,651
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.95	346,202	469,140
K. C. S. (Inc. T. & Ft. S.)	854.09	1,542,245	1,805,717
K. O. & G	314.42	140,315	440,266
La. & Ark	302.25	235,741	779,954
L. Ry. & N. Co. (Inc. L. Ry. & N. Co. of T.)	544.71	354,421	650,660
Mid. Val	364.90	212,071	581,176
M. & N. A	364.57	57,751	158,409
M.-K.-T. (Inc. M.-K.-T. of T.) and W. F. & N. W	3,193.14	3,068,948	961,107
Mo. Pac	7,359.97	8,773,081	1,192,000
St. L.-S. F. (Inc. St. L. S. F. and Ft. W. & R. G.)	5,132.24	4,705,560	916,863
St. L. S. W. (Inc. St. L. S. W. of T.)	1,777.01	1,423,436	801,029
S. A. & A. P	739.36	281,287	380,447
S. A. U. & G	317.26	59,386	187,184
Sou. Pac. (Tex. & La.)	3,616.67	3,807,230	1,052,689
T. & P	1,952.74	1,616,722	827,925
T. & B. V	368.89	144,701	392,261
V. S. & P	188.46	184,464	978,797
Wich. Val	271.92	39,369	144,782
Total	51,036.30	50,078,509	981,233
Total, Excl. A., T. & S. F. and C., R. I. & P	34,355.23	32,570,574	948,053

R
A. T. & S. F. (Inc. G. C. &
C. R. I. & P
C. & A
C. & E. I
C. & N. W
C. B. & Q
C. G. W
C. M. & St. P
C. St. P. M. & O
D. S. S. & A
E. J. & E
G. B. & W
I. C
L. S. & Ishpeming
M. & St. L
M. St. P. & S. S. M
Q. O. & K. C
Wabash
Total
Total, Excl. A., T.

Road for Class I Carriers in Southwestern and Western Trunk Line Territories, for the Year Ended December 31, 1924

Tons of revenue freight carried one mile (thousands)	Tons one mile per mile of road	Road	Average miles of road operated	Tons of revenue freight carried one mile (thousands)	Tons one mile per mile of road
(3)	(4)	(5)	(6)	(7)	(8)
		Carriers in Western Trunk Line Territory			
13,080,878	1,105,086	A. T. & S. F. (Inc. G. C. & S. F. and P. & S. F.)	9,069.61	10,003,531	1,102,973
7,853,201	972,811	C. R. I. & P	7,611.46	7,504,404	985,935
564,420	1,236,028	C. & A	1,050.86	2,183,641	2,139,021
73,218	293,165	C. & E. I.	945.13	2,211,994	2,340,412
791,898	920,608	C. & N. W	8,462.83	8,290,313	979,614
721,964	622,651	C. B. & Q	9,407.23	12,287,748	1,306,203
346,202	469,140	C. G. W	1,496.06	1,944,029	1,299,433
1,542,245	1,805,717	C. M. & St. P	10,986.92	11,004,765	1,001,624
140,315	440,266	C. St. P. M. & O	1,749.19	1,638,715	936,842
235,741	779,954	D. S. S. & A	591.30	319,694	540,663
354,421	650,660	E. J. & E	459.77	1,504,529	3,272,351
212,071	581,176	G. B. & W	234.15	83,244	355,516
57,751	158,409	I. C	4,849.74	13,063,940	2,693,740
3,068,948	961,107	L. S. & Ishpeming	161.51	70,073	433,862
		M. & St. L	1,647.26	1,207,204	732,856
8,773,081	1,192,000				
4,705,560	916,863	M. St. P. & S. S. M	4,402.53	3,407,219	773,923
1,423,436	801,029	Q. O. & K. C	250.84	39,833	158,798
281,287	380,447	Wabash	2,489.93	4,920,974	1,976,350
59,386	187,184				
3,807,230	1,052,689				
1,616,722	827,925				
144,701	392,261				
184,464	978,797				
39,369	144,782				
50,078,509	981,233	Total	65,866.32	81,685,850	1,240,176
32,570,574	948,053	Total, Excl. A., T. & S. F. and C., R. I. & P	49,185.25	64,177,915	1,304,820

[fol. 683]

Summary Comparing the Average Haul per Ton of Revenue Freight for Class I Carriers in Southwestern and Western Trunk Li
December 31, 1923 and 1924

	Year 1923		Year 1924	
	Railways in S. W. Territory	Railways in W. T. L. Territory	Railways in S. W. Territory	Railways in W. T. L. Territory
Including A., T. & S. F. and C., R. I. & P. Ry. Lines in Both Southwestern Territory and Western Trunk Line				
Tons of Revenue Freight Carried	203,619,796	409,051,489	216,305,715	385,475,179
Tons of Revenue Freight Carried One Mile (Thousands)	46,447,799	86,947,550	50,078,509	85,111,994
Average Haul per Ton (Miles)	228	217	232	221
Excluding A., T. & S. F. and C., R. I. & P. Ry. Lines from Both Southwestern Territory and Western Trunk Lin				
Tons of Revenue Freight Carried	134,269,881	339,701,394	145,049,127	314,218,591
Tons of Revenue Freight Carried One Mile (Thousands)	26,649,151	69,148,902	29,144,430	64,177,915
Average Haul per Ton (Miles)	198	204	201	204

rage Haul per Ton of Revenue Freight for Class I Carriers in Southwestern and Western Trunk Line Territories, for the Years Ended December 31, 1923 and 1924

	Year 1923		Year 1924		Years 1923 and 1924 Combined	
	Railways in S. W. Territory	Railways in W. T. L. Territory	Railways in S. W. Territory	Railways in W. T. L. Territory	Railways in S. W. Territory	Railways in W. T. L. Territory
cluding A., T. & S. F. and C., R. I. & P. Ry. Lines in Both Southwestern Territory and Western Trunk Line Territory						
.....	203,619,796	409,051,489	216,305,715	385,475,179	419,925,691	794,526,688
One Mile (Thousands).....	46,447,799	86,947,550	50,078,509	85,111,994	96,526,308	174,059,544
.....	228	217	232	221	230	219
luding A., T. & S. F. and C., R. I. & P. Ry. Lines from Both Southwestern Territory and Western Trunk Line Territory						
.....	134,269,881	339,701,394	145,049,127	314,218,591	279,319,008	653,919,985
One Mile (Thousands).....	26,649,151	69,148,902	29,144,430	64,177,915	55,793,581	133,326,817
.....	198	204	201	204	200	204

Average Haul per Ton of Revenue Freight for Class I Carriers in Southwestern and Western Trunk Line Territor

Carriers in Southwestern Territory

Road	Tons of revenue freight carried	Tons of Revenue freight carried one mile (thousands)	Average haul per ton (miles)	Road
(1)	(2)	(3)	(4)	(5)
A. T. & S. F. (Inc. G. C. & S. F. and P. & S. F.)	39,681,166	12,323,209	311	A. T. & S. F. (Inc. G. C. & S. F
C. R. I. & P. (Inc. C. R. I. & G.)	29,668,929	7,475,439	252	C. R. I. & P. (Inc. C. R. I. & G
Ft. W. & D. C.	2,900,189	469,002	162	C. & A.
Ft. S. & W.	587,624	64,508	110	C. & E. I.
Gulf Coast Lines	3,774,839	602,635	160	C. & N. W.
I. & G. N.	4,170,323	677,806	163	C. B. & Q.
K. C. M. & O. (Inc. K. C. M. & O. of T.)	1,034,086	244,368	236	C. G. W.
K. C. S. (Inc. T. & Ft. S.)	7,046,132	1,684,014	239	C. M. & St. P.
K. O. & G.	1,656,447	165,035	100	C. St. P. M. & O.
La. & Ark.	2,202,186	208,366	95	D. S. S. & A.
L. Ry. & N. Co. (Inc. L. Ry. & N. Co. of T.)	2,296,089	280,255	122	E. J. & E.
Mid. Val.	2,311,544	181,091	78	G. B. & W.
M. & N. A.	431,279	43,335	100	I. C.
M.-K.-T. (Inc. M.-K.-T. of T. and W. F. & N. W.)	11,231,232	2,789,306	248	L. S. & Ishpeming
				M. & St. L.
Mo. Pac.	32,715,582	7,416,476	227	
St. L.-S. F. (Inc. St. L. S. F. & T. and Ft. W. & R. G.)	23,844,147	4,431,912	186	M. St. P. & S. S. M.
St. L. S. W. (Inc. St. L. S. W. of T.)	6,365,897	1,697,769	267	Q. O. & K. C.
S. A. & A. P.	1,608,866	217,756	135	Wabash
S. A. U. & G.	335,562	34,901	104	
Sou. Pac. (Tex. & La.)	17,154,243	3,639,360	212	
T. & P.	8,892,982	1,419,938	160	
T. & B. V.	1,308,427	183,797	140	
V. S. & P.	2,000,530	165,461	83	
Wich. Val.	401,675	32,060	80	
Total	203,619,976	46,447,799	228	
Total Excl. A., T. & S. F. and C., R. I. & P. Lines	134,269,881	26,649,151	198	Total Exel. A. T. & S. F. and C

Freight for Class I Carriers in Southwestern and Western Trunk Line Territories, for the Year Ended December 31, 1923.

ritory

Tons of revenue freight carried	Tons of Revenue freight carried one mile (thousands)	Average haul per ton (miles)
(2)	(3)	(4)
681,166	12,323,209	311
668,929	7,475,439	252
900,189	469,002	162
587,624	64,508	110
774,839	602,635	160
170,323	677,806	163
034,086	244,368	236
046,132	1,684,014	239
556,447	165,035	100
202,186	208,366	95
296,089	280,255	122
311,544	181,091	78
431,279	43,335	100
231,232	2,789,306	248
715,582	7,416,476	227
344,147	4,431,912	186
665,897	1,697,769	267
408,866	217,756	135
435,562	34,901	104
454,243	3,639,360	212
492,982	1,419,938	160
408,427	183,797	140
000,530	165,461	83
401,675	32,060	80
419,976	46,447,799	228
669,881	26,649,151	198

Carriers in Western Trunk Line Territory

Road	Tons of revenue freight carried	Tons of revenue freight carried one mile (thousands)	Average haul per ton (miles)
	(6)	(7)	(8)
A. T. & S. F. (Inc. G. C. & S. F. and P. & S. F.)	39,681,166	12,323,209	311
C. R. I. & P. (Inc. G. R. I. & G.)	29,668,929	7,475,439	252
C. & A	13,507,046	2,436,637	180
C. & E. I	14,697,968	2,304,817	157
C. & N. W	58,207,915	9,248,615	159
C. B. & Q	43,483,603	12,690,384	292
C. G. W	6,722,786	1,969,074	293
C. M. & St. P	51,314,300	11,922,244	232
C. St. P. M. & O	10,511,198	1,612,952	153
D. S. S. & A	3,901,908	305,992	78
E. J. & E	35,291,656	1,959,289	56
G. B. & W	782,445	66,434	85
I. C	55,110,674	15,069,986	273
L. S. & Ishpeming	2,794,387	43,002	15
M. & St. L	7,311,189	1,276,675	175
M. St. P. & S. S. M	16,758,404	3,515,132	210
Q. O. & K. C	566,550	54,457	96
Wabash	18,739,365	4,673,212	249
	409,051,489	88,947,550	217
Total Exel. A. T. & S. F. and C. R. I. & P. Lines	339,701,394	69,148,902	204

Average Haul per Ton of Revenue Freight for Class I Carriers in Southwestern and Western Trunk Line T

Carriers in Southwestern Territory

Road	Tons of revenue freight carried	Tons of revenue freight carried one mile (thousands)	Average haul per ton (miles)
(1)	(2)	(3)	(4)
A. T. & S. F. (Inc. G. C. & S. F. and P. & S. F.)	40,695,205	13,080,878	321
C. R. I. & P. (Inc. C. R. I. & G.)	30,561,383	7,853,201	257
Ft. W. & D. C	3,402,165	564,420	166
Ft. S. & W	737,977	73,218	99
Gulf Coast Lines	4,111,838	791,898	193
I. & G. N	4,429,176	721,964	163
K. C. M. & O. (Inc. K. C. M. & O. of T.)	1,478,409	346,202	234
K. C. S. (Inc. T. & Ft. S.)	6,958,838	1,542,245	222
K. O. & G	1,436,062	140,315	98
La. & Ark	2,572,140	235,741	92
L. Ry. & N. Co. (Inc. L. Ry. & N. Co. of T.)	2,721,800	354,421	130
Mid. Val	2,608,905	212,071	81
M. & N. A	457,557	57,751	126
M. K. T. (Inc. M. K. T. of T. and W. F. & N. W.)	11,978,114	3,068,948	256
Mo. Pac	36,713,004	8,773,081	239
St. L.-S. F. (Inc. St. L. S. F. & T. and Ft. W. & R. G.)	24,789,301	4,705,560	190
St. L. S. W. (Inc. St. L. S. W. of T.)	5,901,480	1,423,436	241
S. A. & A. P	2,298,710	281,287	122
S. A. U. & G	517,071	59,386	115
Sou. Pac. (Tex. & La.)	18,911,141	3,807,230	201
T. & P	9,394,609	1,616,722	172
T. & B. V	916,595	144,701	158
V. S. & P	2,233,726	184,464	83
Wich. Val	480,509	39,369	82
Total	216,305,715	50,078,509	232
Total Excl. A., T. & S. F. and C., R. I. & P. Lines	145,049,127	29,144,430	201

A. T. & S. F. (Inc. G. C. &			
C. R. I. & P. (Inc. C. R. I			
C. & A			
C. & E. I			
C. & N. W			
C. B. & Q			
C. G. W			
C. M. & St. P			
C. St. P. M. & O			
D. S. S. & A			
E. J. & E			
G. B. & W			
I. C			
L. S. & Ishpeming			
M. & St. L			
M. St. P. & S. S. M			
Q. O. & K. C			
Wabash			
Total			
Total Excl. A., T.			

Freight for Class I Carriers in Southwestern and Western Trunk Line Territories, for the Year Ended December 31, 1924

...y			Carriers in Western Trunk Line Territory			
...of ...ue ...ht ...ed	Tons of revenue freight carried one mile (thousands)	Average haul per ton (miles)	Road	Tons of revenue freight carried	Tons of revenue freight carried one mile (thousands)	Average haul per ton (miles)
	(3)	(4)	(5)	(6)	(7)	(8)
...205	13,080,878	321	A. T. & S. F. (Inc. G. C. & S. F. and P. & S. F.)	40,695,205	13,080,878	321
...383	7,853,201	257	C. R. I. & P. (Inc. C. R. I. & G.)	30,561,383	7,853,201	257
...165	564,420	166	C. & A.	12,616,257	2,183,641	173
...977	73,218	99	C. & E. I.	13,387,224	2,211,994	165
...838	791,898	193	C. & N. W.	52,158,316	8,290,313	159
...176	721,964	163	C. B. & Q.	42,778,294	12,287,748	287
...409	346,202	234	C. G. W.	6,587,565	1,944,029	295
...838	1,542,245	222	C. M. & St. P.	47,143,747	11,004,765	233
...062	140,315	98	C. St. P. M. & O.	10,567,741	1,638,715	155
...140	235,741	92	D. S. S. & A.	4,273,860	319,694	75
...800	354,421	130	E. J. & E.	29,558,259	1,504,529	51
...905	212,071	81	G. B. & W.	890,880	83,244	93
...557	57,751	126	I. C.	49,040,926	13,063,940	266
...114	3,068,948	256	L. S. & Ishpeming	2,986,686	70,073	23
			M. & St. L.	6,642,929	1,207,204	182
...004	8,773,081	239				
...301	4,705,560	190	M. St. P. & S. S. M.	15,820,453	3,407,219	215
...480	1,423,436	241	Q. O. & K. C.	475,649	39,833	84
...710	281,287	122	Wabash	19,289,805	4,920,974	255
...071	59,386	115				
...141	3,807,230	201				
...609	1,616,722	172				
...595	144,701	158				
...726	184,464	83				
...509	39,369	82				
...715	50,078,509	232	Total	385,475,179	85,111,994	221
...127	29,144,430	201	Total Excl. A., T. & S. F. and C., R. I. & P. Lines	314,218,591	64,177,915	204

Summary Comparing Freight Operating Statistics for Class I Railways in Southwestern and Western Trunk Line Territories for the Years End

	Year 1923		Year 1924		
	Rys. in S. W. Territory	Rys. in W. T. L. Territory	Rys. in S. W. Territory	Rys. in W. T. L. Territory	
Including A., T. & S. F. Ry. and C., R. I. & P. Ry. in Both Southwestern Territory and West					
Train Miles (Thousands)	97,844	160,821	98,258	149,361	
Freight Car Miles (Thousands):					
Total	3,483,595	6,154,785	3,752,488	5,961,861	
Loaded	2,315,295	4,029,906	2,465,960	3,882,954	
Gross Ton Miles, Excl. Loco. & Tender (Thousands)	130,051,089	233,147,835	140,265,213	224,624,706	
Net Ton Miles, Rev. & Non-Revenue (Thousands)	53,826,720	101,844,722	57,586,602	95,617,362	
Train Hours	8,255,858	13,772,475	7,989,186	12,373,354	
Freight Cars per Train (Inc. Caboose)	36.6	39.3	39.2	40.9	
Gross Tons per Train, Excl. Loco. & Tender	1,329	1,450	1,428	1,504	
Net Tons per Train	550	633	586	640	
Net Tons per Loaded Car Mile	23.2	25.3	23.4	24.6	
Percent of Loaded to Total Car Miles	66.5	65.5	65.7	65.1	
Gross Ton Miles per Train Hour (Excl. Loco. & Tender)	15,753	16,928	17,557	18,154	
Net Ton Miles per Train Hour	6,520	7,395	7,208	7,728	
Excluding A., T. & S. F. Ry. and C., R. I. & P. Ry. from Both Southwestern Territory and W					
Train Miles (Thousands)	58,522	121,499	60,862	111,965	
Freight Car Miles (Thousands):					
Total	1,988,676	4,659,866	2,233,874	4,443,247	
Loaded	1,334,476	3,049,087	1,470,994	2,887,988	
Gross Ton Miles, Excl. Loco. & Tender (Thousands)	74,934,569	178,031,315	83,900,056	168,259,549	
Net Ton Miles, Rev. & Non-Revenue (Thousands)	32,557,349	80,575,351	35,899,175	73,929,935	
Train Hours	5,083,361	10,599,978	5,100,182	9,484,350	
Freight Cars per Train (Inc. Caboose)	35.0	39.4	37.7	40.7	
Gross Tons per Train, Excl. Loco. & Tender	1,280	1,465	1,379	1,503	
Net Tons per Train	556	663	590	660	
Net Tons per Loaded Car Mile	24.4	26.4	24.4	25.6	
Percent of Loaded to Total Car Miles	67.0	65.4	65.8	65.0	
Gross Ton Miles per Train Hour (Excl. Loco. & Tender)	14,741	16,795	16,450	17,741	
Net Ton Miles per Train Hour	6,405	7,601	7,039	7,795	

ays in Southwestern and Western Trunk Line Territories for the Years Ended December 31, 1923, and 1924, and Ten Months Ended October 31, 1925

Year 1923		Year 1924		10 months ended October 31, 1925		1923, 1924, and 10 months ended October 31, 1925, Combined	
n S. W. itory	Rys. in W. T. L. Territory	Rys. in S. W. Territory	Rys. in W. T. L. Territory	Rys. in S. W. Territory	Rys. in W. T. L. Territory	Rys. in S. W. Territory	Rys. in W. T. L. Territory
S. F. Ry. and C., R. I. & P. Ry. in Both Southwestern Territory and Western Trunk Line Territory							
97,844	160,821	98,258	149,361	82,409	122,578	278,511	432,760
83,595	6,154,785	3,752,488	5,961,861	3,337,726	5,152,358	10,573,809	17,269,004
15,295	4,029,906	2,465,960	3,882,954	2,166,502	3,358,447	6,947,757	11,271,307
51,089	233,147,835	140,265,213	224,624,706	123,860,479	193,521,833	394,176,781	651,294,374
26,720	101,844,722	57,586,602	95,617,362	49,774,197	81,360,718	161,187,519	278,822,802
55,858	13,772,475	7,989,186	12,373,354	6,440,702	9,843,405	22,685,746	35,989,234
36.6	39.3	39.2	40.9	41.5	43.0	38.9	40.9
1,329	1,450	1,428	1,504	1,503	1,579	1,415	1,505
550	633	586	640	604	664	579	644
23.2	25.3	23.4	24.6	23.0	24.2	23.2	24.7
66.5	65.5	65.7	65.1	64.9	65.2	65.7	65.3
15,753	16,928	17,557	18,154	19,231	19,660	17,376	18,097
6,520	7,395	7,208	7,728	7,728	8,266	7,105	7,747
S. F. Ry. and C., R. I. & P. Ry. from Both Southwestern Territory and Western Trunk Line Territory							
58,522	121,499	60,862	111,965	51,665	91,834	171,049	325,298
38,676	4,659,866	2,233,874	4,443,247	2,026,783	3,841,415	6,249,333	12,944,528
34,476	3,049,087	1,470,994	2,887,988	1,305,609	2,947,554	4,111,079	8,434,629
34,569	178,031,315	83,900,056	168,259,549	75,323,529	144,984,883	234,158,154	491,275,747
37,349	80,575,351	35,899,175	73,929,935	31,378,838	62,965,359	99,835,362	217,470,645
33,361	10,599,978	5,100,182	9,484,350	4,124,420	7,527,123	14,307,963	27,611,451
35.0	39.4	37.7	40.7	40.2	42.8	37.5	40.8
1,280	1,465	1,379	1,503	1,458	1,579	1,369	1,510
556	663	590	660	607	686	584	669
24.4	26.4	24.4	25.6	24.0	25.2	24.3	25.8
67.0	65.4	65.8	65.0	64.4	65.0	65.8	65.2
14,741	16,795	16,450	17,741	18,263	19,262	16,366	17,792
6,405	7,601	7,039	7,795	7,608	8,365	6,978	7,876

Summary of Freight Operating Statistics, Class I Railways in Southwestern Territory, for

Road	Train miles (thousands)	Freight-car miles (thousands)		Gross ton-miles excl. loco. & tender (thousands)	Net ton-miles rev. & non-rev. (thousands)	Train hours
		Total	Loaded			
(1)	(2)	(3)	(4)	(5)	(6)	(7)
A. T. & S. F. Ry.	21,211	907,163	590,342	33,656,858	12,277,946	1,634,72
G. C. & S. F. Ry.	3,062	119,466	78,718	4,518,847	1,981,093	244,29
C. R. I. & P. Ry. (Inc. C. R. I. & G.)	18,111	587,756	390,477	21,459,662	8,991,425	1,537,77
Ft. W. & D. C. Ry.	863	32,475	21,474	1,218,739	500,088	70,47
Ft. S. & W. Ry.	178	4,490	3,098	158,359	67,650	19,61
Gulf Coast Lines	948	43,614	26,816	1,612,721	665,323	89,60
I. & G. N. R. R.	1,744	52,669	36,374	1,949,119	809,406	144,17
K. C. M. & O. Ry.	392	9,237	6,501	347,868	154,490	33,36
K. C. M. & O. Ry. of Tex.	420	7,971	5,702	307,126	124,157	32,10
K. C. S. Ry. (Inc. Tex. & Ft. S.)	2,240	89,080	64,184	3,618,874	1,732,786	199,67
K. O. & G. Ry.	398	9,122	6,055	365,255	176,700	38,89
La. & Ark. Ry.	452	13,498	8,396	501,094	219,235	39,30
La. Ry. & Nav. Co.	473	14,218	9,341	544,197	244,335	52,17
La. Ry. & Nav. Co. of Tex.	218	4,039	2,711	156,515	71,750	24,09
Mid. Val. R. R.	465	13,495	7,523	483,143	201,970	51,41
Mo. & Nor. Ark. Ry.	232	2,936	2,258	113,028	52,822	25,24
M. K. T. R. R. (Inc. W. F. & N. W.)	3,291	154,154	97,047	5,408,167	2,156,768	274,17
M. K. T. R. R. Co. of Tex.	2,264	77,790	49,742	2,798,483	1,114,966	194,26
Mo. Pac. R. R.	13,696	493,223	339,953	19,064,645	8,667,564	1,232,68
St. L. S. F. Ry.	10,548	302,023	201,156	11,354,255	4,960,188	887,64
St. L. S. F. & T. Ry.	182	5,566	3,541	196,917	78,369	17,56
Ft. W. & R. G. Ry.	223	4,816	2,855	152,096	47,254	17,83
St. L. S. W. Ry.	1,986	88,655	64,361	3,305,332	1,456,243	183,06
St. L. S. W. Ry. of Tex.	1,312	32,728	20,622	1,154,835	444,655	113,78
S. A. & A. P. Ry.	953	19,988	13,108	672,884	256,177	78,31
S. A. U. & G. R. R.	243	3,296	2,218	111,010	38,965	16,66
Sou. Pac. Lines (Tex. & La.)	7,550	250,110	166,974	9,661,457	4,223,128	619,78
T. & P. Ry.	3,216	114,497	77,530	4,202,831	1,702,393	294,96
T. & B. V. Ry.	429	11,665	7,000	447,848	195,402	37,25
V. S. & P. Ry.	372	10,775	7,314	404,701	175,995	33,36
Wichita Valley Ry.	172	3,080	1,904	104,223	37,477	17,85
Total	97,844	3,483,595	2,315,295	130,051,089	53,826,720	8,255,8

g Statistics, Class I Railways in Southwestern Territory, for the Year Ended December 31, 1923

-car miles usands) Loaded	Gross ton-miles excl. loco. & tender (thousands)	Net ton-miles rev. & non-rev. (thousands)	Train hours	Freight cars per train (inc. caboose)	Gross tons per train (excl. loco. & tender)	Net tons per train	Net tons per loaded-car mile	Per cent of loaded to total car-miles	Gross ton-miles per train-hour (excl. loco. & tender)	Net ton-miles per train-hour
(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
590,342	33,656,858	12,277,946	1,634,722	43.8	1,587	579	20.8	65.1	20,589	7,511
78,718	4,518,847	1,981,093	244,291	40.0	1,476	647	25.	65.9	18,498	8,110
390,477	21,459,662	8,991,425	1,537,775	33.4	1,185	496	23.0	66.4	13,955	5,847
21,474	1,218,739	500,088	70,475	38.6	1,412	580	23.3	66.1	17,293	7,096
3,098	158,359	67,650	19,615	26.3	891	381	21.8	69.0	8,073	3,449
26,816	1,612,721	665,323	89,606	46.9	1,701	702	24.8	61.5	17,998	7,425
36,374	1,949,119	809,406	144,176	31.2	1,118	464	22.3	69.1	13,519	5,614
6,501	347,868	154,490	33,369	24.5	888	394	23.8	70.4	10,425	4,630
5,702	307,126	124,157	32,108	19.5	731	295	21.8	71.5	9,565	3,867
64,184	3,618,874	1,732,786	199,678	40.8	1,616	774	27.0	72.1	18,124	8,678
6,055	365,255	176,700	38,893	23.9	917	444	29.2	66.4	9,391	4,543
8,396	501,094	219,235	39,300	30.9	1,109	485	26.1	62.2	12,750	5,578
9,341	544,197	244,335	52,179	31.1	1,151	517	26.2	65.7	10,429	4,683
2,711	156,515	71,750	24,091	19.5	719	330	26.5	67.1	6,497	2,978
7,523	483,143	201,970	51,413	30.0	1,040	435	26.8	55.7	9,397	3,928
2,258	113,028	52,822	25,249	13.6	488	228	23.4	76.9	4,477	2,092
97,047	5,408,167	2,156,768	274,176	47.8	1,643	655	22.2	63.0	19,725	7,866
49,742	2,798,483	1,114,966	194,206	35.3	1,236	492	22.4	63.9	14,410	5,741
339,953	19,064,645	8,667,564	1,232,688	37.0	1,392	633	25.5	68.9	15,466	7,031
201,156	11,354,255	4,960,188	887,643	29.6	1,076	470	24.7	66.6	12,791	5,588
3,541	196,917	78,369	17,500	31.6	1,082	430	22.1	63.6	11,252	4,478
2,855	152,096	47,254	17,839	22.4	683	212	16.6	59.3	8,526	2,649
64,361	3,305,332	1,456,243	183,000	45.6	1,664	733	22.6	72.6	18,062	7,958
20,622	1,154,835	444,655	113,782	25.9	880	339	21.6	63.0	10,150	3,908
13,108	672,884	256,177	78,315	22.0	706	269	19.9	65.6	8,592	3,271
2,218	111,010	38,965	16,651	14.0	457	161	17.6	67.3	6,667	2,340
166,974	9,661,457	4,223,128	619,727	34.1	1,280	559	25.3	66.8	15,590	6,814
77,530	4,202,831	1,702,393	294,987	36.6	1,307	529	22.0	67.7	14,248	5,771
7,000	447,848	195,402	37,221	28.2	1,045	456	27.9	60.0	12,032	5,250
7,314	404,701	175,995	33,333	29.9	1,087	473	24.1	67.9	12,141	5,280
1,904	104,223	37,477	17,850	18.8	607	218	19.7	61.8	5,839	2,100
2,315,295	130,051,089	53,826,720	8,255,858	36.6	1,329	550	23.2	66.5	15,753	6,520

[fol. 688]

Summary of Freight Operating Statistics, Class I Railways in Western Trunk Line Territor

Road	Train miles (thousands)	Freight-car miles (thousands)		Gross ton-miles excl. loco. & tender (thousands)	Net ton-miles rev. & non-rev. (thousands)	Train hours
		Total	Loaded			
(1)	(2)	(3)	(4)	(5)	(6)	(7)
A. T. & S. F. Ry.	21,211	907,163	590,342	33,656,858	12,277,946	1,634,72
C. R. I. & P. Ry. (Inc. C. R. I. & G.)	18,111	587,756	390,477	21,459,662	8,991,425	1,537,77
C. & A. Ry.	4,113	150,453	96,488	5,787,359	2,580,805	370,06
C. & E. I. R. R.	2,976	118,950	77,035	4,609,543	2,283,181	275,31
C. & N. W. Ry.	20,290	702,952	451,737	26,048,210	11,200,636	1,731,31
C. B. & Q. R. R.	20,765	878,363	557,265	33,299,989	15,404,378	1,731,11
C. G. W. R. R.	3,351	139,081	95,697	5,002,389	2,070,392	269,72
C. M. & St. P. Ry.	21,650	839,587	544,615	30,982,922	13,962,575	1,923,52
C. St. P. M. & O. Ry.	4,052	113,883	77,373	4,192,379	1,767,750	345,51
D. S. S. & A. Ry.	838	17,578	12,275	652,311	309,980	84,16
E. J. & E. Ry.	1,668	75,692	50,048	3,811,202	2,098,160	229,08
G. B. & W. R. R.	268	4,136	3,116	147,808	68,786	27,66
I. C. R. R. (Inc. Y. & M. V.)	24,020	1,011,682	649,220	40,386,752	18,359,172	2,134,83
Lake Sup. & Ishpeming R. R.	Data Not Available					
Minn. & St. L. R. R.	2,907	74,642	51,955	3,011,315	1,464,765	254,58
M. St. P. & S. St. M. Ry.	6,718	218,067	153,319	8,111,860	3,889,251	596,82
Q. O. & K. C. R. R.	195	3,715	2,505	138,553	62,009	22,25
Wabash Ry.	7,688	311,085	226,439	11,848,723	5,053,511	604,01
Total	160,821	6,154,785	4,029,906	233,147,835	101,844,722	13,772,47
Total, Excl. A. T. & S. F. and C. R. I. & P.	121,499	4,659,866	3,049,087	178,031,315	80,575,351	10,599,97

tatistics, Class I Railways in Western Trunk Line Territory for the Year Ended December 31, 1923

r miles nds) Loaded	Gross ton-miles excl. loco. & tender (thousands)	Net ton-miles rev. & non-rev. (thousands)	Train hours	Freight cars per train (inc. caboose)	Gross tons per train (excl. loco. & tender)	Net tons per train	Net tons per loaded-car mile	Per cent of loaded to total car-miles	Gross ton-miles per train-hour (excl. loco. & tender)	Net ton-miles per train-hour
(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
590,342	33,656,858	12,277,946	1,634,722	43.8	1,587	579	20.8	65.1	20,589	7,511
390,477	21,459,662	8,991,425	1,537,775	33.4	1,185	496	23.0	66.4	13,955	5,847
96,488	5,787,359	2,580,805	370,061	37.6	1,407	627	26.7	64.1	15,639	6,974
77,035	4,609,543	2,283,181	275,311	40.9	1,549	767	29.6	64.8	16,743	8,293
451,737	26,048,210	11,200,636	1,731,311	35.6	1,284	552	24.8	64.3	15,045	6,469
557,265	33,299,989	15,404,378	1,731,114	43.2	1,604	742	27.6	63.4	19,236	8,899
95,697	5,002,389	2,070,392	269,728	42.5	1,493	618	21.6	68.8	18,546	7,676
544,615	30,982,922	13,962,575	1,923,524	39.8	1,431	645	25.6	64.9	16,107	7,259
77,373	4,192,379	1,767,750	345,512	29.0	1,035	436	22.8	67.9	12,134	5,116
12,275	652,311	309,980	84,162	22.0	778	370	25.3	69.8	7,751	3,683
50,048	3,811,202	2,098,160	229,084	46.4	2,285	1,258	41.9	66.1	16,637	9,159
3,116	147,808	68,786	27,666	16.0	552	257	22.1	75.3	5,343	2,486
649,220	40,386,752	18,359,172	2,134,830	43.1	1,681	764	28.3	64.2	18,918	8,600
51,955	3,011,315	1,464,765	254,584	26.6	1,036	504	28.2	69.6	11,828	5,754
183,319	8,111,860	3,889,251	596,823	33.4	1,208	579	25.4	70.3	13,592	6,517
2,505	138,553	62,009	22,256	20.1	711	318	24.8	67.4	6,225	2,786
226,439	11,848,723	5,053,511	604,012	41.5	1,541	657	22.3	72.8	19,617	8,367
,029,906	233,147,835	101,844,722	13,772,475	39.3	1,450	633	25.3	65.5	16,928	7,395
,049,087	178,031,315	80,575,351	10,599,978	39.4	1,465	663	26.4	65.4	16,795	7,601

[fol. 689]

Summary of Freight Operating Statistics, Class I, Railways in Southwestern Territory for

Road	Train miles (thousands)	Freight-car miles (thousands)		Gross ton-miles excl. loco. & tender (thousands)	Net ton-miles rev. & non-rev. (thousands)	Train hours
		Total	Loaded			
(1)	(2)	(3)	(4)	(5)	(6)	(7)
A. T. & S. F. Ry.	19,732	904,811	586,261	33,964,783	12,430,463	1,472,4
G. C. & S. F. Ry.	3,341	147,890	95,793	5,662,024	2,484,985	258,9
C. R. I. & P. Ry. (Inc. C. R. I. & G.)	17,664	613,803	408,705	22,400,374	9,256,964	1,416,5
Ft. W. & D. C. Ry.	966	39,377	26,101	1,449,860	592,467	78,7
Ft. S. & W. Ry.	189	5,295	3,518	185,396	77,171	22,9
Gulf Coast Lines	1,201	60,910	37,682	2,298,004	886,953	116,7
I. & G. N. R. R.	1,823	61,106	40,953	2,199,682	874,358	146,6
K. C. M. & O. Ry.	542	14,483	10,031	550,373	240,780	45,6
K. C. M. & O. Ry. of Texas	581	11,255	7,749	430,406	174,281	44,7
K. C. S. Ry. (Inc. Tex. & Ft. S.)	1,977	86,013	60,987	3,478,519	1,616,474	162,3
K. O. & G. Ry.	355	8,607	5,853	331,001	153,087	33,4
La. & Ark. Ry.	493	14,842	9,206	563,013	243,878	41,0
La. Ry. & Nav. Co.	558	17,855	11,235	681,433	314,359	61,0
La. Ry. & Nav. Co. of Tex.	271	5,248	3,564	198,897	89,453	29,3
Mid. Val. R. R.	499	15,700	9,023	511,171	240,297	53,4
Mo. & Nor. Ark. Ry.	340	3,674	2,797	149,081	67,935	32,
M. K. T. R. R. (Inc. W. F. & N. W.)	2,947	156,223	98,235	5,539,367	2,209,506	237,
M. K. T. R. R. Co. of Tex.	2,376	96,519	60,351	3,439,649	1,354,764	203,
Mo. Pac. R. R.	15,440	595,598	396,886	22,916,607	10,293,048	1,371,
St. L.-S. F. Ry.	10,163	326,041	212,525	12,109,420	5,146,320	798,
St. L. S. F. & T. Ry.	242	7,319	4,337	269,873	99,728	16,
Ft. W. & R. G. Ry.	210	5,178	2,945	162,563	49,998	16,
St. L. S. W. Ry.	1,660	75,028	55,264	2,795,785	1,210,667	131,
St. L. S. W. Ry. of Tex.	1,136	29,163	19,228	1,041,459	408,727	94,
S. A. & A. P. Ry.	1,069	24,332	15,353	833,682	318,181	91,
S. A. U. & G. R. R.	304	5,059	3,223	174,016	62,384	23,
Sou. Pac. Lines (Tex. & La.)	7,619	262,307	173,729	10,105,659	4,362,396	601,
T. & P. Ry.	3,593	131,468	86,947	4,827,204	1,922,434	298,
T. & B. V. Ry.	388	11,178	6,920	405,935	161,831	32,
V. S. & P. Ry.	407	12,383	8,066	463,475	197,467	35,
Wichita Valley Ry.	190	3,823	2,493	126,502	45,246	19,
Total	98,258	3,752,488	2,465,960	140,265,213	57,586,602	7,989,
Total Excl. A. T. & S. F. and C. R. I. & P.	60,862	2,233,874	1,470,994	83,900,056	35,899,175	5,100,

ng Statistics, Class I, Railways in Southwestern Territory for the Year Ended December 31, 1924

t-car miles usands) Loaded	Gross ton-miles excl. loco. & tender (thousands)	Net ton-miles rev. & non-rev. (thousands)	Train hours	Freight cars per train (inc. caboose)	Gross tons per train (excl. loco. & tender)	Net tons per train	Net tons per loaded-car mile	Per cent of loaded to total car-miles	Gross ton-miles per train-hour (excl. loco. & tender)	Net ton-miles per train-hour
(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
586,261	33,964,783	12,430,463	1,472,463	46.8	1,721	630	21.2	64.8	23,067	8,442
95,793	5,662,024	2,484,985	258,955	45.2	1,695	744	25.9	64.8	21,865	9,596
408,705	22,400,374	9,256,964	1,416,541	35.7	1,268	524	22.6	66.6	15,813	6,535
26,101	1,449,860	592,467	78,741	41.8	1,501	613	22.7	66.3	18,413	7,524
3,518	185,396	77,171	22,901	29.1	983	409	21.9	66.4	8,096	3,370
37,682	2,298,004	886,953	116,771	51.7	1,914	739	23.5	61.9	19,680	7,596
40,953	2,199,682	874,358	146,608	34.5	1,207	480	21.4	67.0	15,004	5,964
10,031	550,373	240,780	45,693	27.7	1,015	444	24.0	69.3	12,045	5,270
7,749	430,406	174,281	44,721	20.1	741	300	22.5	68.8	9,624	3,897
60,987	3,478,519	1,616,474	162,302	44.5	1,759	818	26.5	70.9	21,432	9,960
5,853	331,001	153,087	33,489	25.2	931	431	26.2	68.0	9,884	4,571
9,206	563,013	243,878	41,094	31.2	1,143	495	26.5	62.0	13,701	5,935
11,235	681,433	314,359	61,058	33.0	1,221	563	28.0	62.9	11,160	5,149
3,564	198,897	89,453	29,379	20.3	733	330	25.1	67.9	6,770	3,045
9,023	511,171	240,297	53,485	32.5	1,024	482	26.6	57.5	9,557	4,493
2,797	149,081	67,935	32,106	11.7	439	200	24.3	76.1	4,643	2,116
98,235	5,539,367	2,209,506	237,351	54.0	1,880	750	22.5	62.9	23,338	9,309
60,351	3,439,649	1,354,764	203,279	41.6	1,447	570	22.4	62.5	16,921	6,665
396,886	22,916,607	10,293,048	1,371,104	39.6	1,484	667	25.9	66.6	16,714	7,507
212,525	12,109,420	5,146,320	798,630	33.0	1,191	506	24.2	65.2	15,163	6,444
4,337	269,873	99,728	16,603	33.7	1,204	445	23.0	59.3	16,254	6,007
2,945	162,563	49,998	16,257	25.4	773	238	17.0	56.9	10,000	3,075
55,264	2,795,785	1,210,667	131,981	46.1	1,684	729	21.9	73.7	21,183	9,173
19,228	1,041,459	408,727	94,169	26.6	917	360	21.3	65.9	11,059	4,340
15,353	833,682	318,181	91,984	23.8	780	298	20.7	63.1	9,063	3,459
3,223	174,016	62,384	23,669	17.4	572	205	19.4	63.7	7,352	2,636
173,729	10,105,659	4,362,396	601,643	35.4	1,326	573	25.1	66.2	16,797	7,251
86,947	4,827,204	1,922,434	298,281	37.6	1,344	535	22.1	66.1	16,183	6,445
6,920	405,935	161,831	32,837	29.8	1,045	417	23.4	61.9	12,362	4,928
8,066	463,475	197,467	35,550	31.4	1,138	485	24.5	65.1	13,037	5,555
2,493	126,502	45,246	19,541	21.0	665	238	18.1	65.2	6,474	2,315
2,465,960	140,265,213	57,586,602	7,989,186	39.2	1,428	586	23.4	65.7	17,557	7,208
1,470,994	83,900,056	35,899,175	5,100,182	37.7	1,379	590	24.4	65.8	16,450	7,039

Summary of Freight Operating Statistics—Class I Railways in Western Trunk Line Territory f

Road	Train miles (thousands)	Freight-car miles (thousands)		Gross ton-miles excl. loco. & tender (thousands)	Net ton-miles rev. & non-rev. (thousands)	Train hours
		Total	Loaded			
(1)	(2)	(3)	(4)	(5)	(6)	(7)
A. T. & S. F. Ry.	19,732	904,811	568,261	33,964,783	12,430,463	1,472,4
C. R. I. & P. Ry. (Inc. C. R. I. & G.)	17,664	613,803	408,705	22,400,374	9,256,964	1,416,5
C. & A. Ry.	3,924	144,579	90,719	5,493,079	2,321,140	346,9
C. & E. I. R. R.	2,909	118,187	76,004	4,567,931	2,225,257	249,4
C. & N. W. Ry.	18,655	665,716	421,722	24,152,746	9,915,520	1,558,0
C. B. & Q. R. R.	18,980	827,235	520,567	31,135,599	14,166,647	1,538,4
C. G. W. R. R.	3,260	143,476	94,757	5,176,979	2,078,361	255,4
C. M. & St. P. Ry.	19,013	777,229	511,397	28,959,740	12,929,886	1,655,6
C. St. P. M. & O. Ry.	4,013	110,424	77,126	4,196,726	1,812,867	331,1
D. S. S. & A. Ry.	882	19,580	12,753	702,713	326,136	83,1
E. J. & E. Ry.	1,336	61,409	40,190	3,003,608	1,603,531	193,1
G. B. & W. R. R.	322	5,328	3,922	197,439	88,208	31,8
I. C. R. R. (Inc. Y. & M. V.)	21,205	925,920	593,421	36,504,899	15,833,037	1,796,6
Lake Sup. & Ishpeming R. R.	Data not available.					
Minn. & St. L. R. R.	2,805	75,800	50,288	2,966,082	1,382,464	242,0
M. St. P. & S. St. M. Ry.	6,646	227,384	156,569	8,319,294	3,844,841	587,0
Q. O. & K. C. R. R.	172	2,962	1,942	106,503	44,231	18,1
Wabash Ry.	7,843	338,018	236,611	12,776,211	5,357,809	597,4
Total	149,361	5,961,861	3,882,954	224,624,706	95,617,362	12,373,3
Total, Excl. A. T. & S. F. and C. R. I. & P.	111,965	4,443,247	2,887,988	168,259,549	73,929,935	9,484,3

istics—Class I Railways in Western Trunk Line Territory for the Year Ended December 31, 1924

r miles nds) Loaded	Gross ton-miles excl. loco. & tender (thousands)	Net ton-miles rev. & non-rev. (thousands)	Train hours	Freight cars per train (inc. caboose)	Gross tons per train (excl. loco. & tender)	Net tons per train	Net tons per loaded-car mile	Per cent of loaded to total car-miles	Gross ton-miles per train-hour (excl. loco. & tender)	Net ton-miles per train-hour
(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
568,261	33,964,783	12,430,463	1,472,463	46.8	1,721	630	21.2	64.8	23,067	8,442
408,705	22,400,374	9,256,964	1,416,541	35.7	1,268	524	22.6	66.6	15,813	6,535
90,719	5,493,079	2,321,140	346,975	37.8	1,400	592	25.6	62.7	15,831	6,690
76,004	4,567,931	2,225,257	249,428	41.6	1,570	765	29.3	64.3	18,314	8,921
421,722	24,152,746	9,915,520	1,558,009	36.7	1,295	532	23.5	63.3	15,502	6,364
520,567	31,135,599	14,166,647	1,538,408	44.5	1,640	746	27.2	62.9	20,239	9,209
94,757	5,176,979	2,078,361	255,465	45.1	1,588	638	21.9	66.0	20,265	8,136
511,397	28,959,740	12,929,886	1,655,611	41.8	1,523	680	25.3	65.8	17,492	7,810
77,126	4,196,726	1,812,867	331,106	28.5	1,046	452	23.5	69.8	12,675	5,475
12,753	702,713	326,136	83,108	23.2	797	370	25.6	65.1	8,455	3,924
40,190	3,003,608	1,603,531	193,105	47.0	2,248	1,200	39.9	65.4	15,554	8,304
3,922	197,439	88,208	31,840	17.2	613	274	22.5	73.6	6,201	2,770
593,421	36,504,899	15,833,037	1,796,617	44.7	1,722	747	26.7	64.1	20,319	8,813
50,288	2,966,082	1,382,464	242,046	28.0	1,058	493	27.5	66.3	12,254	5,712
156,569	8,319,294	3,844,841	587,024	35.1	1,252	579	24.6	68.9	14,172	6,550
1,942	106,503	44,231	18,157	18.2	619	257	22.8	65.6	5,866	2,436
236,611	12,776,211	5,357,809	597,451	44.1	1,629	683	22.6	70.0	21,385	8,968
3,882,954	224,624,706	95,617,362	12,373,354	40.9	1,504	640	24.6	65.1	18,154	7,728
2,887,988	168,259,549	73,929,935	9,484,350	40.7	1,503	660	25.6	65.0	17,741	7,795

Summary of Freight Operating Statistics, Class I Carriers in Southwestern Territory, for t

Road	Train miles (thousands)	Freight-car miles (thousands)		Gross ton-miles—excl. loco. & tender (thousands)	Net ton-miles—rev. & non-rev. (thousands)	Trai hou
		Total	Loaded			
(1)	(2)	(3)	(4)	(5)	(6)	(7
A. T. & S. F.	16,231	784,008	511,710	29,477,122	10,727,855	1,191
G. C. & S. F. Ry.	2,778	128,012	81,250	4,920,827	2,119,564	205
C. R. I. & P. Ry. (Inc. C. R. I. & G.)	14,513	526,935	349,183	19,059,828	7,667,504	1,124
Ft. W. & D. C. Ry.	812	33,422	21,827	1,217,651	475,678	63
Ft. S. & W. Ry.	153	4,541	2,958	157,000	62,001	15
Gulf Coast Lines	1,265	58,901	34,950	2,221,832	831,163	109
I. & G. N. R. R.	1,552	57,510	38,352	2,047,976	792,978	113
K. C. M. & O. Ry.	369	10,181	6,717	381,870	159,761	31
K. C. M. & O. Ry. of T.	502	11,207	7,063	418,426	167,244	39
K. C. S. Ry. (Inc. T. & Ft. S.)	1,607	77,142	53,724	3,091,038	1,401,601	128
K. O. & G. Ry.	358	9,615	6,281	370,787	171,709	30
La. & Ark. Ry.	399	12,422	7,802	467,237	198,554	32
La. Ry. & Nav. Co.	379	13,007	8,227	494,148	224,143	35
La. Ry. & Nav. Co. of Tex.	229	4,347	2,998	167,746	76,181	24
Mid. Val. R. R.	402	13,828	7,738	467,241	215,662	42
Mo. & No. Ark. Ry.	277	3,362	2,456	129,149	57,396	25
M. K. T. R. R. (Inc. W. F. & N. W.)	2,463	140,204	85,948	4,945,548	1,911,682	191
M. K. T. R. R. of Tex.	1,907	83,392	50,642	2,962,380	1,158,616	154
Mo. Pac. R. R.	13,601	564,224	369,710	21,457,056	9,378,011	1,147
St. L.-S. F. Ry.	8,762	306,540	194,173	11,205,922	4,609,117	672
St. L. S. F. & T. Ry.	188	6,761	3,719	221,649	76,401	13
Ft. W. & R. G. Ry.	165	4,125	2,323	128,785	38,877	12
St. L. S. W. Ry.	1,394	66,808	48,042	2,466,548	1,041,215	103
St. L. S. W. Ry. of Tex.	894	25,139	16,233	879,334	333,858	68
S. A. & A. P. Ry.	Included with Southern Pacific Lines.					
S. A. U. & G. R. R.	246	4,127	2,664	143,472	47,427	17
Sou. Pac. Lines (Tex. & La.)	6,944	241,091	156,575	8,999,018	3,755,948	517
T. & P. Ry.	3,100	121,072	77,280	4,415,442	1,688,761	249
T. & B. V. Ry.	312	9,231	5,736	333,190	134,714	27
V. S. & P. Ry.	463	13,502	8,261	507,302	211,591	37
Wich. Val. Ry.	144	3,070	1,960	104,955	38,985	14
Total	82,409	3,337,726	2,166,502	123,860,479	49,774,197	6,44
Total Excl. A. T. & S. F. and C. R. I. & P.)	51,665	2,026,783	1,305,609	75,323,529	31,378,838	4,12

g Statistics, Class I Carriers in Southwestern Territory, for the Ten Months Ended October 31, 1925

-car miles usands) Loaded	Gross ton-miles—excl. loco. & tender (thousands)	Net ton-miles—rev. & non-rev. (thousands)	Train hours	Freight cars per train (inc. caboose)	Gross tons per train (excl. loco. & tender)	Net tons per train	Net tons per loaded car-mile	Per cent of loaded to total car-miles	Gross ton-miles per train-hour (excl. loco. & tender)	Net ton-miles per train-hour
(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
511,710	29,477,122	10,727,855	1,191,723	49.3	1,816	661	21.0	65.3	24,735	9,002
81,250	4,920,827	2,119,564	205,285	47.0	1,772	763	26.1	63.5	23,971	10,325
349,183	19,059,828	7,667,504	1,124,559	37.3	1,313	528	22.0	66.3	16,949	6,818
21,827	1,217,651	475,678	63,884	42.2	1,500	586	21.8	65.3	19,060	7,446
2,958	157,000	62,001	15,814	30.8	1,029	406	21.0	65.1	9,928	3,921
34,950	2,221,832	831,163	109,238	47.5	1,756	657	23.8	59.3	20,335	7,609
38,352	2,047,976	792,978	113,383	38.0	1,319	511	20.7	66.7	18,062	6,994
6,717	381,870	159,761	31,401	28.6	1,034	433	23.8	66.0	12,161	5,088
7,063	418,426	167,244	39,082	23.2	833	333	23.7	63.0	10,706	4,279
53,724	3,091,038	1,401,601	128,751	49.0	1,924	872	26.1	69.6	24,008	10,886
6,281	370,787	171,709	30,003	27.8	1,035	479	27.3	65.3	12,358	5,723
7,802	467,237	198,554	32,904	32.1	1,171	497	25.4	62.8	14,200	6,034
8,227	494,148	224,143	35,873	35.4	1,305	592	27.2	63.2	13,775	6,248
2,998	167,746	76,181	24,412	20.0	733	333	25.4	69.0	6,871	3,121
7,738	467,241	215,662	42,147	35.4	1,163	537	27.9	56.0	11,086	5,117
2,456	129,149	57,396	25,291	13.1	466	207	23.4	73.1	5,107	2,269
85,948	4,945,548	1,911,682	191,280	57.9	2,008	776	22.2	61.3	25,855	9,994
50,642	2,962,380	1,158,616	154,023	44.7	1,554	608	22.9	60.7	19,233	7,522
369,710	21,457,056	9,378,011	1,147,354	42.5	1,578	689	25.4	65.5	18,701	8,174
194,173	11,205,922	4,609,117	672,236	36.0	1,279	526	23.7	63.3	16,670	6,856
3,719	221,649	76,401	13,625	37.0	1,178	406	20.5	55.0	16,268	5,607
2,323	128,785	38,877	12,241	25.7	780	236	16.7	56.3	10,521	3,176
48,042	2,466,548	1,041,215	103,081	48.9	1,770	747	21.7	71.9	23,928	10,101
16,233	879,334	333,858	68,507	29.1	983	373	20.6	64.6	12,836	4,873
cific Lines.										
2,664	143,472	47,427	17,868	17.7	584	193	17.8	64.6	8,030	2,654
156,575	8,999,018	3,755,948	517,693	35.7	1,296	541	24.0	64.9	17,383	7,255
77,280	4,415,442	1,688,761	249,454	40.0	1,424	545	21.9	63.8	17,700	6,770
5,736	333,190	134,714	27,213	30.6	1,070	432	23.5	62.1	12,244	4,950
8,261	507,302	211,591	37,809	30.1	1,095	457	25.6	61.2	13,418	5,596
1,960	104,955	38,985	14,568	22.2	728	270	19.9	63.8	7,204	2,676
2,166,502	123,860,479	49,774,197	6,440,702	41.5	1,503	604	23.0	64.9	19,231	7,728
1,305,609	75,323,529	31,378,838	4,124,420	40.2	1,458	607	24.0	64.4	18,263	7,608

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Summary of Freight Operating Statistics, Class I Carriers in Western Trunk Line Territ

Road	Train miles (thousands)	Freight-car miles (thousands)		Gross ton-miles excl. loco. & tender (thousands)	Net ton-miles rev. & non-rev. (thousands)	Train hours
		Total	Loaded			
(1)	(2)	(3)	(4)	(5)	(6)	(7)
A. T. & S. F. Ry.	16,231	784,008	511,710	29,477,122	10,727,855	1,191,
C. R. I. & P. Ry. (Inc. C. R. I. & G.)	14,513	526,935	349,183	19,059,828	7,667,504	1,124,
C. & A. Ry.	2,988	121,068	75,152	4,552,992	1,853,500	258,
C. & E. I. R. R.	2,375	103,547	66,874	3,956,946	1,875,692	184,
C. & N. W. Ry.	14,535	552,088	350,758	20,049,745	8,207,929	1,184,
C. B. & Q. R. R.	15,125	690,488	437,651	25,736,579	11,644,977	1,187,
C. G. W. R. R.	2,627	121,052	80,460	4,349,974	1,736,694	203
C. M. & St. P. Ry.	15,883	699,209	457,431	25,931,134	11,342,664	1,333
C. St. P. M. & O. Ry.	3,185	91,921	63,404	3,393,065	1,420,516	259
D. S. S. & A. Ry.	671	15,840	10,770	583,268	280,084	61
E. J. & E. Ry.	1,271	59,285	38,502	2,903,540	1,539,642	176
G. B. & W. R. R.	291	5,274	3,827	180,762	76,784	26
I. C. R. R. (Inc. Y. M. V.)	18,015	801,976	514,167	31,782,961	13,651,181	1,450
Lake Sup. & Ishpeming R. R.	135	3,369	1,865	128,899	78,355	13
Minn. & St. L. R. R.	2,266	63,410	43,100	2,469,200	1,139,038	188
M. St. P. & S. S. M. Ry.	5,505	197,998	136,786	7,172,126	3,264,195	479
Q. O. & K. C. R. R.	144	2,484	1,642	95,234	42,740	15
Wabash Ry.	6,818	312,406	215,165	11,698,458	4,811,368	503
Total	122,578	5,152,358	3,358,447	193,521,833	81,360,718	9,843
Total, Excl. A. T. & S. F. and C. R. I. & P.	91,834	3,841,415	2,497,554	144,984,883	62,965,359	7,527

ing Statistics, Class I Carriers in Western Trunk Line Territory for the Ten Months Ended, October 31, 1925

ar miles nds) Loaded	Gross ton-miles excl. loco. & tender (thousands)	Net ton-miles rev. & non-rev. (thousands)	Train hours	Freight cars per train (inc. caboose)	Gross tons per train (excl. loco. & tender)	Net tons per train	Net tons per loaded-car mile	Per cent of loaded to total car-miles	Gross ton-miles per train-hour (excl. loco. & tender)	Net ton-miles per train-hour
(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
511,710	29,477,122	10,727,855	1,191,723	49.3	1,816	661	21.0	65.3	24,735	9,002
349,183	19,059,828	7,667,504	1,124,559	37.3	1,313	528	22.0	66.3	16,949	6,818
75,152	4,552,992	1,853,500	258,891	41.5	1,524	620	24.7	62.1	17,587	7,159
66,874	3,956,946	1,875,692	184,016	44.6	1,666	790	28.0	64.6	21,503	10,193
350,758	20,049,745	8,207,929	1,184,700	38.9	1,379	565	23.4	63.5	16,924	6,928
437,651	25,736,579	11,644,977	1,187,188	46.6	1,702	770	26.6	63.4	21,679	9,809
80,460	4,349,974	1,736,694	203,636	47.1	1,656	661	21.6	66.5	21,362	8,528
457,431	25,931,134	11,342,664	1,333,959	45.0	1,633	714	24.8	65.4	19,439	8,503
63,404	3,393,065	1,420,516	259,005	29.8	1,065	446	22.4	69.0	13,100	5,485
10,770	583,268	280,084	61,218	24.6	869	417	26.0	68.0	9,528	4,575
38,502	2,903,540	1,539,642	176,990	47.6	2,284	1,211	40.0	64.9	16,405	8,699
3,827	180,762	76,784	26,801	19.0	622	264	20.1	72.5	6,745	2,865
514,167	31,782,961	13,651,181	1,450,464	45.5	1,764	758	26.6	64.1	21,912	9,412
1,865	128,899	78,355	13,906	23.0	866	526	42.0	55.4	9,269	5,635
43,100	2,469,200	1,139,038	188,586	28.9	1,090	503	26.4	68.0	13,093	6,040
136,786	7,172,126	3,264,195	479,006	36.9	1,303	593	23.9	69.1	14,973	6,815
1,642	95,234	42,740	15,316	18.3	662	297	26.0	66.1	6,218	2,791
215,165	11,698,458	4,811,368	503,441	46.8	1,716	706	22.4	68.9	23,237	9,557
3,358,447	193,521,833	81,360,718	9,843,405	43.0	1,579	664	24.2	65.2	19,660	8,266
2,497,554	144,984,883	62,965,359	7,527,123	42.8	1,579	686	25.2	65.0	19,262	8,365

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Summary Comparing the Tractive Effort of Freight Engines for Class I Carriers in Southwestern and Western Trunk Line Territories for the Years Ended December 31, 1923 and 1924

	Year 1923		Year 1924		Average of years 1923 & 1924 combined	
	Railways in S. W. territory	Railways in W. T. L. territory	Railways in S. W. territory	Railways in W. T. L. territory	Railways in S. W. territory	Railways in W. T. L. territory
Including A., T. & S. F. Ry. and C., R. I. & P. Ry. in Both Southwestern Territory and Western Trunk Line Territory						
Number of Freight Engines Available for Service	5,460	8,857	5,412	8,818	5,436	8,838
Total Tractive Effort	231,177,900	377,559,200	235,281,700	379,385,100	233,229,800	378,472,150
Average Tractive Effort Per Engine	42,340	42,628	43,474	43,024	42,907	42,826
Excluding A., T. & S. F. Ry. and C., R. I. & P. Ry. from Both Southwestern Territory and Western Trunk Line Territory						
Number of Freight Engines Available for Service	3,398	6,795	3,383	6,789	3,391	6,792
Total Tractive Effort	135,492,600	281,873,900	138,464,700	282,568,100	136,978,650	282,221,000
Average Tractive Effort Per Engine	39,874	41,483	40,930	41,621	40,402	41,552

Tractive Effort of Freight Engines, for Class I Carriers in Southwestern and Western Trunk Line Terr

Carriers in Southwestern Territory

Road	Freight Engines			
	Number available for service	Total tractive effort	Average tractive effort per engine	
(1)	(2)	(3)	(4)	
A. T. & S. F. (Inc. G. C. & S. F. and P. & S. F.)	1,224	64,954,900	53,068	A. T. & S. F.
C. R. I. & P. (Inc. C. R. I. & G.)	1,031	39,691,500	38,498	C. R. I. & P.
Ft. W. & D. C	72	3,023,000	41,986	C. & A.
Ft. S. & W	15	469,000	31,267	C. & E. I.
Gulf Coast Lines	45	1,519,000	33,756	C. & N. W.
I. & G. N	28	1,291,600	46,129	C. B. & Q.
K. C. M. & O. (Inc. K. C. M. & O. of T.)	54	1,960,900	36,313	C. G. W.
K. C. S. (Inc. T. & Ft. S.)	125	6,194,800	49,558	C. M. & St. P.
K. O. & G.	23	953,200	41,443	C. St. M. & O.
La. & Ark	24	909,700	37,904	D. S. S. & A.
L. Ry. & N. Co. (Inc. L. Ry. & N. Co. of T.)	42	1,173,400	27,938	E. J. & E.
Mid. Val	37	1,234,200	33,357	G. B. & W.
M. & N. A	18	594,400	33,022	I. C
M.-K.-T. (Inc. M.-K.-T. of T. and W. F. & N. W.)	426	18,658,800	43,800	L. S. & Ishpeming
Mo. Pac	787	30,482,000	38,732	M. & St. L.
St. L.-S. F. (Inc. St. L. S. F. & T. and Ft. W. & R. G.)	650	26,783,500	41,205	M. St. P. & S. S. M.
St. L. S. W. (Inc. St. L. S. W. of T.)	199	7,413,600	37,254	Q. O. & K. C.
S. A. & A. P	60	1,664,900	27,748	Wabash
S. A. U. & G	12	287,100	23,925	
Sou. Pac. (Tex. & La.)	320	12,188,900	38,090	
T. & P	222	8,267,600	37,241	
T. & B. V	29	888,700	30,645	
V. S. & P	15	528,200	35,213	
Wichita Valley	2	45,000	22,500	
Total	5,460	231,177,900	42,340	Total
Total, Excl. A., T. & S. F. and C., R. I. & P.	3,398	235,399,900	39,874	Total, Excl. A

nes, for Class I Carriers in Southwestern and Western Trunk Line Territories, for the Year Ended December 31, 1923.

itory

Freight Engines			Carriers in Western Trunk Line Territory	Freight Engines		
nber lable ervice	Total tractive effort	Average tractive effort per engine	Road	Number available for service	Total tractive effort	Average tractive effort per engine
2)	(3)	(4)	(5)	(6)	(7)	(8)
224	64,954,900	53,068	A. T. & S. F.	1,067	57,430,300	53,824
031	39,691,500	38,498	C. R. I. & P.	995	38,255,000	38,447
72	3,023,000	41,986	C. & A.	177	7,604,900	42,966
15	469,000	31,267	C. & E. I.	228	9,610,400	42,151
45	1,519,000	33,756	C. & N. W.	1,207	49,085,700	40,668
28	1,291,600	46,129	C. B. & Q.	1,052	45,449,100	43,203
54	1,960,900	36,313	C. G. W.	155	7,007,400	45,209
125	6,194,800	49,558	C. M. & St. P.	1,544	63,945,500	41,415
23	953,200	41,443	C. St. M. & O.	240	7,825,100	32,605
24	909,700	37,904	D. S. S. & A.	46	1,213,600	26,383
42	1,173,400	27,938	E. J. & E.	154	7,606,900	49,395
37	1,234,200	33,357	G. B. & W.	11	295,900	26,900
18	594,400	33,022	I. C.	1,102	50,697,300	46,005
426	18,658,800	43,800	L. S. & Ishpeming	14	568,900	40,636
787	30,482,000	38,732	M. & St. L.	163	5,528,000	33,914
650	26,783,500	41,205	M. St. P. & S. S. M.	333	10,989,800	33,002
399	7,413,600	37,254	Q. O. & K. C.	6	110,400	18,400
60	1,664,900	27,748	Wabash	363	14,335,000	39,490
12	287,100	23,925				
520	12,188,900	38,090				
222	8,267,600	37,241				
29	888,700	30,645				
15	528,200	35,213				
2	45,000	22,500				
660	231,177,900	42,340	Total	8,857	377,559,200	42,628
598	235,399,900	39,874	Total, Excl. A. T. & S. F. and C., R. I. & P.	6,795	281,873,900	41,483

Tractive Effort of Freight Engines, for Class I Carriers in Southwestern and Western Trunk Line Te

Carriers in Southwestern Territory

Road	Freight Engines		
	Number available for service	Total tractive effort	Average tractive effort per engine
(1)	(2)	(3)	(4)
A. T. & S. F. (Inc. G. C. & S. F. & P. & S. F.)	1,245	67,656,700	54,343
C. R. I. & P. (Inc. C. R. I. & G.)	973	38,020,500	39,076
Ft. W. & D. C.	71	3,006,000	42,338
Ft. S. & W.	15	469,000	31,267
Gulf Coast Lines	47	1,622,000	34,511
I. & G. N.	33	1,527,900	46,300
K. C. M. & O. (Inc. K. C. M. & O. Ry. of T.)	50	1,815,700	36,314
K. C. S. (Inc. T. & Ft. S.)	133	7,251,700	54,524
K. O. & G.	23	953,200	41,443
La. & Ark.	22	844,900	38,405
L. Ry. & N. Co. (Inc. L. Ry. & N. Co. of T,)	43	1,304,200	30,330
Mid. Val.	36	1,212,100	33,669
Mo. & N. A.	18	594,400	33,022
M.-K.-T. (Inc. M.-K.-T. of T. & W. F. & N. W.)	374	17,141,600	45,833
Mo. Pac.	828	33,467,000	40,420
St. L.-S. F. (Inc. St. L. S. F. & T. & Ft. W. & R. G.)	654	26,796,000	40,972
St. L. S. W. (Inc. St. L. S. W. of T.)	199	7,423,700	37,303
S. A. & A. P.	56	1,589,400	28,382
S. A. U. & G.	12	329,700	27,475
Sou. Pac. (Tex. & La.)	314	12,081,500	38,476
T. & P.	218	8,651,600	39,686
T. & B. V.	29	888,700	30,645
V. S. & P.	17	589,200	34,659
Wich. Val.	2	45,000	22,500
Total	5,412	235,281,700	43,474
Total, Excl. A., T. & S. F. & C., R. I. & P.	3,383	138,464,700	40,930

A. T. & S. F.
C. R. I. & P.
C. & A.
C. & E. I.
C. & N. W.
C. B. & Q.
C. G. W.
C. M. & St. P.
C. St. P. M. & O.
D. S. S. of A.
E. J. & E.
G. B. & W.
I. C.
L. S. & Ishpeming
M. & St. L.
M. St. P. & S. S. M.
Q. O. & K. C.
Wabash
Total
Total, Excl.

lass I Carriers in Southwestern and Western Trunk Line Territories, for the Year Ended December 31, 1924.

Carriers in Western Trunk Line Territory

Freight Engines			Freight Engines		
Total tractive effort (3)	Average tractive effort per engine (4)	Road (5)	Number available for service (6)	Total tractive effort (7)	Average tractive effort per engine (8)
67,656,700	54,343	A. T. & S. F.	1,092	60,233,000	55,158
38,020,500	39,076	C. R. I. & P.	937	36,584,000	39,044
3,006,000	42,338	C. & A.	177	7,606,800	42,976
469,000	31,267	C. & E. I.	214	9,304,300	43,478
1,622,000	34,511	C. & N. W.	1,188	48,758,500	41,043
1,527,900	46,300	C. B. & Q.	1,044	45,276,200	43,368
1,815,700	36,314	C. G. W.	154	7,032,300	45,664
7,251,700	54,524	C. M. & St. P.	1,546	63,112,800	40,823
953,200	41,443	C. St. P. M. & O.	239	7,810,300	32,679
844,900	38,405	D. S. S. of A.	49	1,381,900	28,202
1,304,200	30,330	E. J. & E.	145	7,261,000	50,076
1,212,100	33,669	G. B. & W.	12	321,500	26,792
594,400	33,022	I. C.	1,119	51,594,600	46,108
17,141,600	45,833	L. S. & Ishpeming	18	727,300	40,406
33,467,000	40,420	M. & St. L.	163	5,545,400	34,021
26,796,000	40,972	M. St. P. & S. S. M.	333	10,989,800	33,002
7,423,700	37,303	Q. O. & K. C.	6	110,400	18,400
1,589,400	28,382	Wabash	382	15,735,000	41,191
329,700	27,475				
12,081,500	38,476				
8,651,600	39,686				
888,700	30,645				
589,200	34,659				
45,000	22,500				
235,281,700	43,474	Total	8,818	379,385,100	43,024
138,464,700	40,930	Total, Excl. A., T. & S. F. & C., R. I. & P.	6,789	282,568,100	41,621

Increase in Investment in Road and Equipment for Class I Carriers in Southwestern Territory During the Period from January 1, 1917, to December 31, 1924, Inclusive

Road (1)	Average road mileage operated: Year 1916 (2)	Average road mileage operated: Year 1924 (3)	Investment in road and equipment: As of Dec. 31, 1916 (thousands) (4)	Investment in road and equipment: As of Dec. 31, 1924 (thousands) (5)	Investment in road and equipment: Increase (thousands) (6)	Investment in road and equipment: Per cent of increase (7)
A. T. & S. F. (Inc. G. C. & S. F. and P. & S. F.)	11,244.40	11,836,98	$691,548	$920,468	$228,920	33.10%
C. R. I. & P. (Inc. C. R. I. & G.)	8,090.40	8,072.69	349,675	412,079	62,404	17.85%
Ft. W. & D. C	454.14	456.64	25,632	30,785	5,153	20.10%
Gulf Coast Lines	897.64	860.19	34,767	38,754	3,987	11.47%
I. & G. N	1,159.50	1,159.50	40,208	45,137	4,929	12.26%
K. C. M. & O. (Inc. K. C. M. & O. of T.)	737.87	737.95	28,691	29,158	467	1.63%
K. C. S. (Inc. T. & Ft. S.)	842.73	854.09	97,985	108,292	10,307	10.52%
K. O. & G	332.36	314.42	11,524	18,821	7,297	63.32%
La. & Ark	278.72	302.25	12,105	13,773	1,668	13.78%
L. Ry. & N. Co. (Inc. L. Ry. & N. Co. of T.)	349.18	544.71	20,862	26,052	5,190	24.88%
Mid. Val	383.02	364.90	18,609	20,877	2,268	12.19%
M.-K.-T. (Inc. M.-K.-T. of T. and W. F. & N. W.)	3,865.02	3,193.14	247,228	273,937	26,709	10.80%
Mo. Pac	7,437.26	7,359.97	327,448	418,392	90,944	27.77%
St. L.-S. F. (Inc. St. L. S. F. & T. and Ft. W. & R. G.)	5,231.11	5,132.24	333,479	410,208	76,729	23.01%
St. L. S. W. (Inc. St. L. S. W. of T.)	1,753.83	1,777.01	101,073	119,077	18,004	17.81%
S. A. & A. P	732.65	739.36	24,210	26,327	2,117	8.74%
S. A. U. & G	317.26	317.26	4,723	5,916	1,193	25.26%
Sou. Pac. (Tex. & La.)	3,534.70	3,616.67	181,418	209,279	27,861	15.36%
T. & P	1,946.50	1,952.74	110,461	136,684	26,223	23.74%
T. & B. V	357.21	368.89	11,533	11,686	153	1.33%
V. S. & P	171.47	188.46	9,059	10,959	1,900	20.97%
Wichita Valley	256.90	271.92	5,510	6,048	538	9.76%
Total	50,373.87	50,421.98	$2,687,748	$3,292,709	$604,961	22.51%
Total, Excl. A., T. & S. F. and C., R. I. & P.	34,124.99	33,740.91	$1,742,764	$2,072,414	$329,650	18.92%

[fol. 697] This exhibit, No. A-124, offered for the carriers in Southwestern territory, contains financial, operating and traffic statistics of the class 1 carriers in Southwestern and Western Trunk Line territories for different periods. Throughout the exhibit, the figures are shown separately for each line or system; in total for the lines in Southwestern Territory and in total for the lines in Western Trunk Line territory. In grouping the lines into the two territories the A. T. & S. F. Railway and the C. R. I. & P. Railway were included in both the Southwestern Territory and Western Trunk Line territory, those two roads having much mileage in both of the two territories. However, in order to have at hand information showing the results with the A. T. & S. F. Railway and the C. R. I. & P. Railway omitted, the group totals and averages are shown also with those two roads excluded from both the Southwestern Territory and Western Trunk Line Territory. The information is set up under eleven different headings as indicated by the index appearing on page one (Tr. 4925-4926).

There is shown first, the net railway operating income, investment in road and equipment, rate of return and net railway operating income per mile of road for class 1 carriers in Southwestern and Western Trunk Line territories for the years ended December 31, 1916, 1917, 1921, 1922, '23, 1924 and 1923, which information appears on pages 2 to 9 inclusive. Pages 3 to 9 show the detail by roads and in total for each group, there being a separate page for each year, the year 1616 being on page 3, the year 1917 being on page 4, and so on. For convenient reference and comparison, the group totals and averages for each year were brought forward and set up on page 2. The figures for the carriers in Southwestern Territory are set up in columns 1 [fol. 698] to 6 inclusive, and those for the carriers in Western Trunk Line Territory in columns 7 to 12 inclusive. In the upper half of the page the Santa Fe and the Rock Island figures are included in both the Southwestern Territory and Western Trunk Line Territory and in the lower half of the page they are excluded from both territories. Calling attention to some of the figures, it will be observed that for the year 1916 the rate of return for the lines in

the Southwestern Territory amounted to 4.82 per cent and for the lines in Western Trunk Line Territory 5.74 per cent, the net railway operating income per mile of road amounting to $2,761.00 and $3,466.00 respectively. These figures included the Santa Fe and the Rock Island. Excluding these lines as shown in the lower half, the 1916 rate of return for the Southwestern group was 4.03 per cent and the western Trunk Line group 5.57 per cent. For the average of the seven years the rate of return with the Santa Fe and the Rock Island included in each of the two groups, amounts to 4.30 per cent for the Southwestern group and 3.98 per cent for the western trunk line group. With those two lines excluded the seven year average shows 3.95 per cent for the Southwestern group and 3.65 per cent for the Western Trunk Line group (Tr. 4926-4927).

I want to call attention to the fact that the balance of the information in the exhibit is set up in the same manner as that pertaining to net railway operating income, rate of return, and so forth, on pages 2 to 9 inclusive, just described. The carriers included in the Western Trunk Line and Southwestern territories, respectively, are territories listed in the Exhibit (Tr. 4928).

Next in the exhibit is shown information pertaining to dividends paid by the lines in the two territories during the years 1916 and 1917 and the four years of 1921 to 1924 inclusive, same appearing on pages 10 to 18 inclusive. The [fol. 699] comparative summary will be found on page 10. This shows that for the six years combined the percentage of dividends declared to capital stock amounted to 2.51 per cent for the Southwestern group and 4.46 per cent for the Western Trunk Line group; that is on the basis of including the Santa Fe and the Rock Island in both groups, the rate of dividends to capital stock for the six years combined amounted to 73/100 of one per cent for the Southwestern group and 4.28 per cent for the Western Trunk Line group. Per mile of road they amounted to $134 and $971 respectively. In this connection, it may be inferred that the relationship of stock and bonds might have some influence on the amount of dividends paid, in that some lines with a larger proportion of their capitalization represented by bonds would be paying a greater amount of interest on

bonds, whereas some other lines with a larger proportion of their capitalization represented by capital stock would be paying a greater amount of dividends on stock. Here, however, we have no such condition. Taking the lines as a whole, I find that the proportion of capital stock to the total of stock and bonds is about the same in each of the two groups. For the year 1923 the figures showed the following: Southwestern Lines, including the Santa Fe and the Rock Island, funded debt $1,846,233,507.00; capital stock $1,141,908,788.00; total $2,988,142,295.00; per cent of capital stock to total, 38.2 per cent. Western Trunk Lines, including the Santa Fe and the Rock Island, funded debt $2,352,386,400.00; capital stock $1,646,772,807.00; total $3,999,159,207.00; per cent of capital stock to total 41.2 per cent (Tr. 4928-4929).

Page 10, which is the comparative summary of the capital stock and dividends, details of which are shown on pages 11 to 16 inclusive, does not contain the heading "Carriers [fol. 700] in Southwestern Territory", which information is covered in columns 1 to 6 inclusive, nor the heading "Carriers in Western Trunk Line Territory", which information is contained in columns 7 to 12 inclusive. Pages 17 to 24 inclusive show the total operating revenues, operating expenses, ratio of operating expenses to operating revenues and operating revenues per mile of road operated for class 1 carriers in the two groups, covering the years 1916 and 1917, and the five years from 1921 to 1925 inclusive. The comparative summary will be found on page 17. Following, on pages 25 to 29 inclusive, are shown the operating ratios separately for freight service and passenger service covering the years 1923 and 1924. The detail by roads for the year 1923 is shown on pages 26 and 27, sheet 36 covering freight traffic and sheet 27 passenger traffic. Sheets 28 and 29 cover in the same way the year 1924. The totals and averages of each of the two groups for the two years are set up and compared on page 25. In this connection I desire to explain that the expenses as here reported, divided between freight and passenger service, are those so reported to the Interstate Commerce Commission by the carriers, as required under the Commission's regulations and formulæ. With the exception of a few small accounts, the revenues automatically divide between freight

service and passenger service. The Commission requires that switching revenue, other freight train revenue, storage freight, demurrage, revenue from grain elevators and stock yards be directly assigned to freight service, and that revenue from excess baggage, sleeping cars, parlor and chair cars, mail, express, other passenger train, milk, parcel rooms, and storage baggage be assigned to,—directly to passenger service. This leaves undivided as between freight service and passenger service the small amounts in ac- [fol. 701] counts, "special service trains," "station, train and boat privileges", "telegraph and telephone lines", "rents of buildings and other property," "Miscellaneous," "joint facility—credit", "joint facility—debit". For the purpose of my exhibit I divided these small items of revenue between the freight service and the passenger service on the basis of percentages that the freight revenue in account 101 and passenger revenue in account 102 bore to the total of the two accounts. I may add in passing that the mexcellaneous revenues so divided are less than 1 per cent of the total operating revenues (Tr. 4930-4931).

On pages 30, 31 and 32 I have shown the freight earnings and freight operating expenses per ton mile for class 1 carriers in the two groups for the years 1923 and 1924. The freight earnings per ton mile as here shown include the miscellaneous earnings allied to freight service as just explained in connection with the revenues shown on pages 25 to 29 inclusive. From the last two columns on page 30, which is the summary sheet, it will be seen that combined for the two years 1923 and 1924, the freight earnings, including miscellaneous freight earnings, per ton mile, amounted to 1.345¢ for the lines in Southwestern group and 1.130¢ for the lines in Western Trunk Line group. The operating expenses per ton mile amounted to .990¢ for the Southwestern group and .855¢ for the lines in the Western Trunk Line group, percent marks in the last column should be cent marks. The percent marks opposite the earnings per ton mile and the expenses per ton mile in the last column should be cents,—cent marks, instead of percent marks (Tr. 4931-4932).

The Examiner here said that he noticed that the freight earnings in the Southwest were apparently about 25 per

cent greater than in Western Trunk Line territory, refer-
[fol. 702] ring to the average freight earnings per ton mile in 1924, that it varried with different years and that the freight operating expenses showed a difference of approximately 15 per cent on the average on the same page. The Witness agreed that the difference in the operating expenses referred to was slightly less than the difference in the earnings per ton mile (Tr. 4932-4933).

The following is quoted verbatim from the transcript of testimony:

Q. I was just wondering whether there was any way of explaining the wide difference between the revenues and expenses per ton mile and the slight difference in the return on investment?

Mr. Towner: Mr. Disque, that return figure you read is averaged for six or seven years, if you will look at the 1924 return figures you will find that the difference is the difference between 3.31 and 4.44 and that is more nearly comparable to the differences on page 30.

Exam. Disque: Oh, yes, I see. It depends on what years you take and what figures; you can get any result you want (Tr. 4933).

The Witness: In these figures the Santa Fe and the Rock Island are included in both the Western Trunk Line Territory and Southwestern Territory. The similar figures, excluding the Santa Fe and the Rock Island, are shown near the bottom of page 30. Following this information, there is shown on pages 33, 34 and 35, the cost of freight station and yard expenses per ton of revenue freight handled, separately for each of the two territories covering the years 1923 and 1924; the detail by roads appearing on pages 34 and 35 and the summary on page 33. The expenses here included are those in accounts 373 to 399 inclusive, assigned to freight service in accordance with the formula prescribed
[fol. 703] by the Commission and as reported by the carriers in their annual reports to the Commission. The figures show a somewhat higher cost per ton for the lines in the Southwestern Group as compared with the lines in the Western Trunk Line group. Those are terminal expenses—station and yard expenses (Tr. 4933-4934).

On pages 36 to 42 inclusive is shown the freight traffic density for class 1 carriers in Southwestern Territory and Western Trunk Line Territory for the years 1916, 1917, 1921, 1922, 1923 and 1924. The details by roads are shown on pages 37 to 42 inclusive, there being a separate sheet for each year. For convenient reference and ready comparison, the group totals and averages of each year are brought over and set up on page 36. In the last two columns on page 36 I have shown the increase in tons one mile per mile of road, Western Trunk Line Territory over Southwestern Territory, expressed both in amounts and percentages. Including the Santa Fe and the Rock Island in both the Southwestern Territory and the Western Trunk Line Territory, the tons one mile per mile of road for the lines in Western Trunk Line Territory, for the year 1916 are 347.343 in excess of those for the lines in Southwestern Territory, or 44.24 per cent. For that same year, including the Santa Fe and the Rock Island from both territories, the increase in Western Trunk Line Territory amounted to 483,900, or 67.79 per cent. For the average of the six years the tons one mile per mile of road in Western Trunk Line Territory are 332,175 or 38.63 per cent over those of the lines in Southwestern Territory, including the Santa Fe and the Rock Island in both territories. Excluding those two lines from both territories, the increase in Western Trunk Line Territory amounts to 461,377, or 57.56 per cent. The average haul per ton of freight for each of the two groups for the years 1923 and 1924 is shown on pages 43, 44 [fol. 704] and 45 (Tr. 4934-4935).

Pages 46 to 52 inclusive contain freight operating statistics for class 1 carriers in the two territories covering the years 1923 and 1924 and the ten months ended October 31, 1925. The principal information shown is the gross and net train load, the per cent of loaded to total car miles and the gross and net ton miles per train hour. The detail by roads is shown on pages 47 to 52 inclusive. The group totals and averages for each period are set up on page 46. In the last two columns on page 46 are shown the totals and averages for the two years and ten months combined. It will be observed that the Western Trunk Lines have a better train and car loading than the Southwestern Lines and also that their gross and net ton miles per train hour are

in excess of those of the Southwestern Lines. That accounts in part for the lower expense per ton mile in Western Trunk Line Territory than in Southwestern Territory (Tr. 4935-4936).

In connection with the train loading and other statistics shown on pages 46 to 52 inclusive, I have shown on pages 53 to 55 inclusive, the tractive effort of freight engines of the class 1 carriers in Southwestern and Western Trunk Line territories for the years 1923 and 1924. This for the reason that heavy or light train loading, where all other conditions are equal, is influenced largely by the size of your engine—the carrier with the heavier power being able to carry the heavier trainload. The figures on page 53, which are the totals and averages for each of the two groups separately for the years 1923 and 1924 and combined for the two years, show that the tractive effort of freight engines of the carriers in the Southwestern Territory are practically the same as the tractive effort of the engines in Western Trunk Line Territory (Tr. 4936).

[fol. 705] On the last page of this exhibit, on page 56, I have shown the amount and percentage of increase in investment in road and equipment for class 1 carriers in Southwestern Territory during the period from January 1, 1917, to December 31, 1924, inclusive. It will be observed that including the Santa Fe and the Rock Island in Southwestern Territory, the increase in investment in road and equipment during the period shown amounted to $604,961,000.00, or 22.51 per cent. Excluding the Santa Fe and the Rock Island, the increase amounted to $329,650,000.00, or 18.92 per cent (Tr. 4927).

The value of the Southwestern Lines compared to the Western Trunk Lines per mile of road is not shown. That is shown in investment of road and equipment, including materials and supplies and cash in connection with the rate of return on pages 2 to 9, inclusive, and it is also shown in the average miles of road operated. Of course, the operated mileage is not always comparable with the investment shown on account of your trackage rights. To have a comparable figure you should have the mileage owned. As I recall the Witness Parson's Exhibit A-78, that only shows the operated mileage and investment in road and equipment including materials and supplies. It does not show the owned

mileage. The elimination of the mileage I referred to would slightly increase these figures, in the case of carriers who operated mileage that they do not own (Tr. 4937-4938).

My figures do not differ substantially from Mr. Parson's in this respect. I compared the mileage figures and investment in road and equipment plus material and supplies, in Mr. Parson's Exhibit No. A-78 with the figures shown in my exhibit and they are exactly the same. The mathematical computation on the same basis can be made from page 2 of Exhibit No. A-124 (Tr. 4938).

[fol. 706] I don't think that I could say offhand how much more revenue per mile of road is necessary in the Southwest over and above that necessary in Western Trunk Line Territory to produce the desired return on investment. The average hauls are approximately the same (Tr. 4939).

The Examiner here said that the value per mile is apparently nearly the same and the expenses per mile about 25 per cent greater, roughly, in the Southwest. It was called to his attention that the figures were partly the result of combination rates and much other traffic which moves on rates not involved in the case (Tr. 4939-4940).

The Witness (continuing): The revenue on traffic involved in this case accruing to the western Trunk Lines for the month of June, 1924 as shown by Exhibit No. A-60 amounts to $919,086.00. The total freight revenue for those same carriers for the month of June, 1924 amounts to $35,888,948.00, the $919,086.00 being 2.5 per cent of the $35,888,948.00. These figures in Exhibit No. A-60, as I understand them, are for the nine roads covered by Exhibit No. A-41 to Exhibit No. A-49, inclusive, although I was unable to verify the figures in Exhibit No. A-41 to A-49, with the total in Exhibit No. A-60 (Tr. 4941).

The proportion of oil traffic to the total traffic as shown by Exhibit No. A-60 and which is for the month of June, 1924, amounts to the following when based on tonnage, oil tonnage 150,093.2, total tonnage 260,434.6, oil being 58 per cent of the total; based on revenue the figures are revenue from oil $1,107,337.00, total revenues $2,217,423.00; proportion of oil to total, 50 per cent (Tr. 4942).

The following is quoted verbatim from the transcript of testimony:

[fol. 707] Exam. Disque: Something was said about the revenues of Southwestern Lines being made up largely of combination rates, revenue from combination rates; that is also true of the Western Trunk Lines.

Mr. Larimore: Well, you could not state I don't think without a complete working knowledge of the rate structure on both lines, you could not take that difference in operating expenses and guess at the intrastate traffic, transcontinental and so forth, and say now this represents the difference between the expenses of the Southwestern Lines and the Western Trunk Lines on the traffic involved here; you would come about as near to it as you would to the moon.

Mr. Muckley: In other words you are taking all of the differences in all territories and applying it to 2 per cent of the traffic as shown by Mr. Press's statement; I don't think that is proper.

Exam. Disque: First thing you know we won't be able to get any testimony that will enable us to decide our case.

Mr. Larimore: Well, we have got some other testimony.

Mr. Outlaw: If the value per mile of line is similar in both territories and the density of traffic is lighter in one than another, wouldn't there have to be in addition to operating expenses being greater by reason of lesser density, wouldn't that lesser density require a greater return per unit of traffic in order to earn a proper return in the territory of lighter density.

A. Yes, sir.

Exam. Disque: Somebody said these Southwestern Lines were over capitalized too.

Mr. Larimore: Who said that

[fol. 708] Exam. Disque: Overvalued, I mean (Tr. 4942-4943).

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-125 (Tr. 4943).

(Exhibit A-125 was received in evidence.)

[fol. 709] The figures shown in Exhibit No. A-125 except for the computation of percentages made therefrom, were copied right out of Exhibit No. A-60. The exhibit shows the revenue per ton and the average haul per ton north of junction and south of junction, compared. The information is shown separately for each of the several commodi-

ties listed in Exhibit No. A-60, namely lumber, oil, live stock, and all other carload freight. It is shown separately for the Southwestern states in which the traffic had point of origin or destination, namely, Missouri, Arkansas, Louisiana, Oklahoma and Texas. It is also shown separately and combined for the traffic moving via the several junction points, namely Kansas City, East St. Louis and Cairo, Gale or Thebes. The information for the traffic via Kansas City and East St. Louis is shown on sheet one. Sheet two covers the traffic via Cairo, Gale or Thebes and the total for all of the junction points being shown at the bottom of page two (Tr. 4943-4944).

I exercised care in extracting from Exhibit A-60 the data completely and correctly. The revenues per ton on the basis of revenues or values is here shown in total for the lines north of the junction and the lines south of the junction, and the average haul for the lines north of the junction and south of the junction are the exact figures as appear in Exhibit No. A-60. The revenue accruing to the lines north of the junctions for the Western Trunk Lines was 41.5 per cent of the total. The average haul of the Western Trunk Lines was 47.2 per cent of the total. That is their service. The revenue accruing to the lines south of the junction on the Southwestern Lines was 58.5 per cent of the total and their service was 52.8 per cent of the total. According to these figures taken from Exhibit A-60 at their [fol. 710] face value, the Southwestern Lines got only about 11 per cent above the mileage pro-rate. I took lumber, oil, live stock and so forth because that was the only separation shown as to commodities in Exhibit A-60. The Exhibit A-25 covered all traffic, not only lumber, live stock and oil, but all other carload traffic. Exhibit A-60 does not show any oil moving from either Arkansas or Louisiana through the Kansas City gateway. That is remarkable. I don't know what conclusion to draw from it. They got it up and they have to explain it (Tr. 4944-4945-4946).

I desire to make a few comments concerning the financial and statistical exhibits offered by certain witnesses of the Western Trunk Lines. Much of the basic information concerned in the exhibits of the Western Trunk Lines is the same as that used in my Exhibit No. A-124 offered here. I have verified the figures used in the exhibits of the Western

Trunk Lines with those shown in my exhibit, and, with some few exceptions, found them to agree. I will take up first Exhibit No. A-50, introduced by Mr. C. H. Balch. On page 3 of this exhibit Mr. Balch shows investment in road and equipment for the Chicago & Eastern Illinois $79,731,-781.00. These figures as used in my exhibit show $83,565,-341.00, a difference of $3,809,741.00, representing proportion of investment in road and equipment of the Chicago & Western Indiana Railroad leased by the Chicago & Eastern Illinois and other roads. My figures covering investment in road and equipment were taken from the records of the Bureau of Railway Economics at Washington, who have on file answers to a questionnaire submitted to the carriers for the purpose of having them report to the Bureau their investment in road and equipment, the earnings and expenses of which are included in the income account of the [fol. 711] operating company. The investment in road and equipment so reported by the carriers is supposed to be in agreement with the investment in road and equipment the carriers reported to the Interstate Commerce Commission under the Commission's orders in the matter of the recovery and payment of excess railway operating income under the provisions of section 15-A of the Interstate Commerce Act. Those figures do not in all cases, check with the investment figures reported in the annual reports of the operating companies. I presume Mr. Balch's figures were taken from the annual reports of the different operating companies filed with the Interstate Commerce Commission, hence the difference. There is a similar difference in the investment in road and equipment for the Chicago & Northwestern. Page 3 of Balch Exhibit No. A-50 shows the investment in road and equipment as of December 31, 1922, for the Chicago & Northwestern at $455,737,729.00. These figures as used in my exhibit No. A-124 show $457,376,-174.00, a difference of $1,638,445.00. This difference, as my investigation developed, represents investment in road and equipment of the Escanaba, Iron Mountain & Western Railroad, a leased line of the Chicago & Northwestern, omitted in exhibit No. A-50, but included in my exhibit No. A-124. It is my understanding that the earnings of this road are included in the income account of the Chicago & Northwestern Railway. It is also my understanding that the investment in road and equipment of the Chicago & North-

western so used in my exhibit, and which is that reported to the Bureau of Railway Economics by the Chicago & Northwestern Railway, is in agreement with that which the Chicago & Northwestern reported to the Interstate Commerce Commission under the Commission's order in the matter of recovery under Section 15-A of the Transpor-[fol. 712] tation Act (Tr. 4946-4947-4948).

Page 3 of exhibit No. A-50 shows investment in road and equipment, including material and supplies, for the St. Louis-Southwestern Railway, $79,153,902.00. The correct amount is $79,163,902.00. This is evidently an error in addition on the part of Mr. Balch, since the investment in road and equipment amounts to $76,918,680.00, and the materials and supplies $2,245,222.00, making the total $79,163,902.00 instead of $79,153,902.00. On this same page 3 of exhibit No. A-50 Mr. Balch shows investment in road and equipment, including material and supplied, for the Texarkana & Ft. Smith, amounting to $4,897,729.00. The correct amount is $4,851,629.00, Mr. Balch having erroneously included $46,100.00 as representing material and supplies which does not represent material and supplies. This difference of $46,100.00 is made up of $10,393.00 traffic and car service balances receivable, $30,048.00 net balance receivable from agents and conductors, and $5,659.00 other current assets, and does not represent material and supplies.

The mark "A" opposite Kansas, Oklahoma & Gulf on page 3 of Balch exhibit No. A-50 and the note at the bottom of page 3 pertaining thereto should be stricken out, since the Kansas, Oklahoma & Gulf figures shown do not include the Kansas, Oklahoma and Gulf of Texas. On page 4 of Balch Exhibit No. A-50 we have the same condition with respect to the investment in road and equipment of the Chicago & Eastern Illinois for the year 1923 as prevailed on page 3 for the year 1922, explained above. The difference amounts to $3,835,377.00, Mr. Balch showing $82,288,-473.00 and the figure as included in my exhibit No. A-124 showing $86,125,850.00. This difference represents $24,-[fol. 713] 481.00 covering investments on leased lines and $3,810,896.00 representing proportion of the investment in road and equipment of the Chicago & Western Indiana Railroad leased by the Chicago & Eastern Illinois included in my exhibit but not by Mr. Balch (Tr. 4948-4949).

On page 4 of Balch exhibit No. A-50 the mileage of the Texarkana & Ft. Smith Railway for the year 1923 is shown as 93.35 miles. The correct mileage is 81.08. The footnote on page 4 pertaining to the Kansas, Oklahoma & Gulf should be stricken out for the same reason as explained above in connection with similar footnote pertaining to the Kansas, Oklahoma & Gulf Railway figures for the year 1922 on page 3. On page 5 of exhibit No. A-50 the net railway operating income of the Southern Pacific Louisiana lines for the year 1924 is shown as $728,696.00. The correct amount is $734,073.00, a difference of $5,377.00. On the same page the net railway operating income for the S. A. & A. P. Railroad for the year 1924 is shown as $752,-236.00, whereas the correct amount is $758,461.00, a difference of $6,225.00. These two differences are due to corrections in the annual reports of these lines to the Interstate Commerce Commission made after Mr. Balch's figures and before my figures were taken off. On page 5 of Balch exhibit No. A-50 the investment in road and equipment, including material and supplies, for the Texarkana & Ft. Smith for the year 1924 is shown as $5,232,523.00. The correct amount is $5,132,523.00. Mr. Balch evidently made an error in footing, since the investment in road and equipment amounts to $5,114,711.00 and material and supplies $17,812.00 producing a total of $5,132,523.00 instead of $5,232,523.00 (Tr. 4950).

Referring to Exhibit No. A-51 introduced by Mr. B. F. [fol. 714] Parsons. I do not see the purpose of the figures in the third last column on page 3 under the heading "net freight revenue". They were arrived at by deducting from the freight revenue in account 101, the operating expenses assigned to freight service, and which operating expenses include the expenses of the miscellaneous freight service operations, such as switching and so forth. The figures are, therefore, in error to that extent. This same exception is taken to the net revenue per loaded freight car mile and the net revenue per million net ton miles shown on page 4 of exhibit A-51. The expenses as applied against the freight revenue include the expenses of the miscellaneous freight service operations while the revenue includes only that in account 101, omitting switching, demurrage, storage, freight, and so forth. There is no justification for apply-

ing the freight expenses, which include the expenses incurred in connection with the miscellaneous freight operations such as switching, and so forth, to the freight revenue only. Take for example, the freight revenue and expenses per million ton miles for the first road shown on page 4, namely, the Chicago & Alton. The freight revenue as shown here, amounting to $9,926.00 does not include the miscellaneous freight revenue, whereas the expenses shown as amounting to $7,930.00 do include the expenses of the miscellaneous freight operation. For the ascertainment of correct net revenue, one of two things should have been done,—either the expenses appertaining to the miscellaneous freight operations should have been excluded from the expenses, or else the revenues from miscellaneous freight operations included with the freight revenues. It would have been a very simple matter to have made the computations with the inclusion of the miscellaneous freight revenues in the freight revenue proper, since the total revenues [fol. 715] assignable to freight service is given on page 3 of exhibit No. A-51. If the freight revenue per million net ton miles for the Chicago & Alton for example, as shown on page 4 had been computed on the basis of the total freight revenue, including the revenue from the miscellaneous freight operations, same would have been shown $10,158.00 instead of $9,926.00 and the net revenue would then have been $2,228.00 instead of $1,996.00. There is a similar disparity for all of the other figures on page 4. The same error appears on page 6 where the freight revenue, expenses and net revenue are set up per freight train mile. The revenues per freight train mile here shown include only the revenue in account 101, omitting the miscellaneous freight revenue, whereas the expenses per freight train mile include the expenses of the miscellaneous freight operations. The net revenue, therefore, is in error to that extent (Tr. 4951-4952).

Referring to Parson's Exhibit No. A-52, covering the year 1923. The average miles operated for the Missouri-Kansas-Texas as appearing on page 2 of this exhibit are shown as 1,800.75. The mileage of the Missouri-Kansas-Texas for the year 1923, as used in my exhibit No. A-124 is 1,883.01, a difference of 82.26 miles. This difference represents the mileage of the Wichita Falls & Northwestern for

the period from January 1st to March 31st, 1923, included in my exhibit but no- included by Mr. Parsons. This inclusion and omission of the Wichita Falls & Northwestern is also responsible for differences in earnings and expenses of the Missouri-Kansas-Texas between the figures shown by Mr. Parsons and those used in my exhibit. Mr. Parsons exhibit shows the railway operating revenues of the Mis-
[fol. 716] souri-Kansas-Texas for the year 1923 on page 2 of this exhibit No. A-52 as $34,650,648.00, while the figures used in my exhibit No. A-124 show $34,911,504.00, a difference of $260,856.00. As to operating expenses, Mr. Parsons shows $26,463,215.00, whereas the expenses included in my exhibit show $26,745,160.00, a difference of $281,-945.00. On page 3 of exhibit No. A-52 the freight revenue of the K. C. M. & O. Railroad is shown as $1,642,780.00, and for the K. C. M. & O. of Texas as $1,590,306.00. My exhibit includes $1,642,060.00 for the K. C. M. & O. and $1,-589,181.00 for the K. C. M. & O. of Texas. The small difference is due to corrections in the annual reports of these roads after Mr. Parsons' figures and before my figures were taken off (Tr. 4952-4953).

As applying to the freight revenue of the Missouri-Kansas-Texas on page 3 of exhibit No. A-52, Mr. Parsons shows $20,522,029.00. My exhibit includes freight revenue for the Missouri-Kansas-Texas amounting to $25,917,-023.00, a difference of $5,394,994.00. I was unable to verify this difference. It is possible that Mr. Parsons has omitted the Missouri-Kansas-Texas Receiver's figures for the three months ended March 31, 1923, but that, however, would not fully explain the difference. The figures in my exhibit are absolutely correct and in accordance with the reports of the Missouri-Kansas-Texas lines filed with the Interstate Commerce Commission, same being as follows: Missouri-Kansas-Texas Receivers, January 1st to March 31, 1923, $6,141,727.00; Wichita Falls & Northwestern receivers, January 1st, to March 31, 1923, $194,994.00; Missouri-Kansas-Texas, new company, including Wichita Falls & Northwestern, April 1st, to December 31, 1923, $19,580,-302.00, a total of $25,917,023.00, as shown in my exhibit. The net freight revenue and operating ratios shown in the
[fol. 717] last two columns on page 3 of Parsons' exhibit

No. A-52 are erroneous for the same reason as stated in connection with similar figures in Parsons' exhibit No. A-51. The net freight revenue and freight operating ratios here shown were arrived at by applying the freight operating expenses including the expenses of the miscellaneous freight operations to the freight revenue only, omitting the revenue from miscellaneous freight operations such as switching, demurrage, and so forth, and the figures, therefore are in error to that extent. On page 4 of Parsons' exhibit No. A-52 he shows the tons of revenue freight for the Chicago & Alton for the year 1923 as 13,499,429. The figures in my exhibit show 13,507,046, a difference of 7,617. There is also a difference of 948,853 in the tons one mile, Mr. Parsons showing 2,435,688,198 and my exhibit showing 2,436,637,051. These difference- represent old company items lapping over into the receivership period, reported in the Chicago & Alton corporate report to the Interstate Commerce Commission, and which were not taken up by Mr. Parsons. Mr. Parsons, however, applied these tons and ton miles to the revenues and expenses, and since he did include the old company lap-over revenues and expenses, he should also have included the old company lap-over tons and tons one mile (Tr. 4954-5955).

For the Missouri-Kansas-Texas on page 4 of exhibit No. A-52 the tons of revenue freight are shown as 7,403,130. My exhibit No. A-124 includes for the Missouri-Kansas-Texas 7,592,100 tons, a difference of 98,970. The Missouri-Kansas-Texas tons one mile on this same page in exhibit No. A-52 are shown as 1,913,767,950. My exhibit includes 1,920,994,793, a difference of 7,226,843. These differences [fol. 718] are brought about by the fact that Mr. Parsons did not include the operations of the Wichita Falls & Northwestern for the three months ended March 31, 1923, whereas such operations are included in my exhibit No. A-124 (Tr. 4955).

The freight revenue per loaded freight car mile and the freight revenue per million net ton miles as shown on this page 4 of exhibit No. A-52 do not include the revenue from miscellaneous freight operations, and, therefore, the net freight revenue per loaded freight car mile and the net revenue per million net ton miles shown on the same page

are in error, since in arriving at these net revenue figures the expenses used include the expenses of the miscellaneous freight operations, while the revenue used is freight revenue only and does not include the revenues from miscellaneous freight operations. This same exception goes to the freight revenue per mile of road and the net freight revenue per mile of road shown on page 5 of Parsons' Exhibit No. A-52. This exception applies also to the freight revenue per train mile and net freight revenue per train mile shown on page 6. You cannot deduct the total expenses of a given traffic to only part of the revenue of such traffic and expect to get correct net revenue as a result (Tr. 4956).

I will now take up Parsons' Exhibit No. A-53. On page 2 of this exhibit Mr. Parsons shows for the Missouri-Kansas-Texas for the year 1922 the average miles operated as 1,670.50, railway operating income $31,991,332.00 and total operating expenses $21,399,658.00, against which my exhibit includes the Missouri-Kansas-Texas 1,999.57; $33,566,591.00; and $22,687,900.00, respectively. The differences represent the mileage and operations of the Wichita Falls & Northwestern, which are included in my exhibit, [fol. 719] but not in exhibit No. A-53, introduced by Mr. Parsons. On page 3 of exhibit No. A-53 the freight revenue of the Missouri-Kansas-Texas is shown as $23,395,947.00. My exhibit includes $24,595,705.00, a difference of $1,199,757.00, which represents the freight revenue of the Wichita Falls & Northwestern, included by me but not by Mr. Parsons (Tr. 4956-4957).

As to the Missouri-Kansas-Texas of Texas: On this page 3 of exhibit No. A-53 the freight revenue is shown as $14,002,696.00. My exhibit shows the—$14,602,696.00, a difference of $600,000.00. This must be an error in copying by Mr. Parsons, since my figures are absolutely correct. The net freight revenue and the freight operating ratios on page 3 of exhibit No. A-53 are erroneous for the reason that same were arrived at through the application of the freight service expenses, and which expenses include the expenses of the miscellaneous freight operations, to the revenue freight, but which revenue does not include the

revenue from the miscellaneous freight operations. This same exception goes to the average freight revenue per loaded freight car mile, the net freight revenue per loaded freight car mile, the freight revenue and the net freight revenue per million net ton miles shown on page 4. It also applies to the freight revenue and net freight revenue per mile of road on page 5 as well as to the freight revenue per train mile and the net freight revenue per train mile on page 6. Referring to Mr. Parsons' Exhibit No. A-54. Exception is taken to the freight operating ratios for the years 1923 and 1922 on page 2 of this exhibit, for the reason that same were arrived at by applying the freight operating expenses, including the expenses of the miscellaneous [fol. 720] freight operations, against the freight revenue in account 101 and which revenue does not include the revenue from miscellaneous freight operations, such as switching, and so forth. This same exception goes to the net freight revenue per mile of road and per million net ton miles shown on page 3, as well as to the net freight revenue per freight train mile and per loaded freight car mile on page 4. I consulted the original annual report on file with the Interstate Commerce Commission at Washington (4957-4958).

I was in Washington first and drew off certain figures for these lines here included, for the purpose of my exhibit No. A-124. In the meantime I compared those figures with the figures shown in the exhibits to which I have taken exception and found that certain differences as I have here explained. At a later date I wanted to get these figures up to date and it was again necessary for me to go to Washington to get the figures for the 11 months ending November 30, 1925. At that time I verified my figures against the figures shown in the exhibits to which I have taken exception and for the purpose of finding out just who was right or who was wrong or just what the reason was for the difference, so I feel reasonably certain as to the accuracy of the figures as I have here explained. Some of those differences were due, no doubt, to errors in copying, some due to cross footing, some might have been an oversight and so on. Now as to the Wichita Falls & Northwestern, which was merged with the M.-K.-T. effective

April 1923, for the purpose of having the same carriers all the way through I worked that merger back into the early figures which as I understand Mr. Parsons' exhibit, was not done. In getting the information I consulted the authentic reports on file with the Interstate Commerce Commission (Tr. 4958-4959).

The operating ratios are shown in Exhibit A-124, divided [fol. 721] between freight service and passenger service. The operating ratios for example are divided between freight service and passenger service shown on page 25. The operating ratio for freight for the year 1923 Southwestern Lines, was 75.96; Western Trunk Lines 76.96. So your estimate of about 25 per cent is about right. Of course that does not include taxes and hire of equipment and rents. I imagine that if you would include that it would run about 30 per cent. The difference in traffic density in the Southwest and Western Trunk Line territory is 38 and a fraction per cent including the Santa Fe and Rock Island and excluding them it is thirty-seven and a fraction (Tr. 4960).

(By Examiner Disque:) Now the operating expenses, say are 35 per cent greater in Southwestern than in Western Trunk Line Territory, the traffic density is 40 per cent less in Southwestern than in Western Trunk Line Territory; therefore you would be inclined to add to represent that 40 per cent difference in traffic density but Mr. Outlaw's point only goes to 25 per cent of the revenue. Therefore you take 25 per cent of 40 and add it to 25, I don't suppose you follow me, but that is what is in my mind. Do you know what I am talking about, Mr. Press?

A. Well, I don't know whether I can answer the Examiner's question. I have something else in mind that might enlighten him on that. Take for example the fact that a carrier may have a low operating ratio, would not indicate that it should be able to earn a higher return on its investment even though it was a fair and reasonable amount because the carrier may have an operating ratio of 85 or 90 per cent and be able to earn more on its investment than the carrier that has an operating ratio of 65 because of the greater density of the carrier with the higher operating [fol. 722] ratio. I have made some comparisons in the past

and found, for example, in the east where you have those heavy coal carrying lines, practically 90 per cent of the tonnage, I found in a good many instances that their operating ratio was very high, running as high as 85 or 90 per cent and yet they are able to earn quite a satisfactory return on their investments, while I have seen other carriers that had a very low operating ratio which could not earn a satisfactory return on their investment. That is on account of the tremendous density. The figures show that the density on the Southwestern Lines is about forty per cent less than on the Western Trunk Lines (Tr. 4961-4962).

Here followed a discussion between the Examiner and Attorney Larimore where it was agreed that the Examiner's theory would be more nearly correct, if the traffic density operating, expenses and value per mile were about the same in both districts. Attorney Larimore said that where the density of traffic is heavier on the Western Trunk Lines you could not apply to that situation the difference in operating expenses as a single rule to go by. To which Examiner Disque said, "Yes, I see, because the operating traffic density affects not only the operating expenses but it affects the return on your investment" (Tr. 4962-4963).

The Witness (continuing): In connection with the operating ratio, Mr. Examiner, as I have stated the line with the higher operating ratio may be in a better position or better able to earn a fair return on its investment as compared with the carrier with a low operating ratio. Take for example on page 24 of Exhibit No. A-124 which covers the total operating ratios for the year 1925 of the individual roads and compare the Illinois Central with the Santa Fe is 68.65 per cent; the operating ratio of the Illinois Central is 76.84 per cent; very much higher, the Illinois Central [fol. 723] than the Santa Fe, but if you look at the rate of return on page 9 for that same year you will find that the Santa Fe earned 5.14 and the Illinois Central only 4.72, although the Santa Fe operating ratio is very much less than the Illinois Central. What I mean is the Illinois Central earned almost as much as the Santa Fe (Tr. 4963).

The Santa Fe with the lower operating ratio earned the largest net return. There isn't so very much difference. That is what I tried to bring out with an operating ratio of

76 against 68, there is only a slight difference between the Illinois Central rate of return and that of the Santa Fe. You can pick out other examples. I have an illustration here which I thought would better serve the purpose. If you compare the E. J. & E. with the Santa Fe for example, which have operating ratios which are almost exactly the same; on page 24 of Exhibit No. A-124 it shows the operating ratio of the Santa Fe, 68.65, the operating ratio of the E. J. & E. is 7.24, very much higher, although both lines have about the same operating ratio, one 68.65 and the other 68.81. The reason for that as I see it is the fact that the E. J. & E. has a much greater density, it is nearly twice as much based on the tons per mile of road. The Santa Fe has as shown on page 42 of Exhibit No. A-124 a density of 1,102,973, whereas the E. J. & E. has a density of 3,272,351 (Tr. 4964).

Now based on net railway operating income, the Santa Fe per mile of road was $4,949.00 and the E. J. & E. $9,255.00. This difference in density as I see it, this substantial difference in density accounts for the greater return on the E. J. & E. as compared with the Santa Fe, when as a matter of fact their operating ratios are almost exactly the same. That is the idea I had in mind (Tr. 4964-4965).

I would not say that 25 cents out of every dollar per unit [fol. 724] of traffic on the Western Trunk Lines goes to pay interest on values, because the operating ratio for the Southwestern Lines as a whole based on the average for the several periods I have covered, amounts to about 75 per cent, that is the ratio of operating expenses to operating revenues. Out of that and before you can pay anything on investment, either as interest on bonds or dividends on stock, you would have to pay your taxes and rentals, which as I recall amount to about 5 or 6 per cent of the total operating revenues. So that if you add the ratio of expenses, including taxes and rentals, to revenues, I believe it would amount to about 80 per cent of the total operating revenues. My answer would be about the same as to the Western Trunk Lines because their ratio is about the same as the Southwestern Lines. Eighty per cent of the revenue on a unit of traffic in Western Trunk Line Territory goes to pay operating expenses and taxes and 20 per cent goes to pay interest on investment. In the Southwest the traffic

is just about half as great, for instance. It would be pretty hard to figure from that how much should go to pay interest on investment in the Southwest as compared with the Western Trunk Lines, giving consideration to the 50 per cent difference in traffic density. Each ton of freight has to pay a little more in the Southwest to make up for the lack of traffic, but just how much, I don't know. I can't tell off hand (Tr. 4965-4966-4967).

The operating expenses per ton mile on the C. M. and St. P. for year 1924, is shown as .829 on page 32 of my exhibit. I have no idea at all to what extent that figure is affected by the Puget Sound extension. I have no means of separating these figures. I do not know how the expenses east of the river on the Wabash affect the total expenses for the Wabash shown in my exhibit, now do I have the information as to the Illinois Central (Tr. 4968).

[fol. 725] Here followed a discussion as to whether most of the Chicago & Northwestern is in Western Trunk Line Territory. Attorney Towner said that the mileage figures put in by Witness Parsons showed that a very small part of it was and Attorney Muckley said that a lot of the secondary line, according to the testimony of the Witness, is outside of Western Trunk Line Territory (Tr. 4969).

Cross-examination:

The figures for the Illinois Central shown in my Exhibit A-124 do not include the Y. & M. V. They are for the Illinois Central Railroad alone. In selecting the carriers in the two territories I conferred with our Traffic and Legal representatives and it is largely my own selection so far as that is concerned. I tried to get the representative lines in both territories. I tried to show the condition of the territory rather than the condition on the individual lines. As I understand it, the E. J. and E is entirely in Western Trunk Line Territory. I think it is representative. It is included in Western Trunk Line Territory. I tried to show the situation in the territory regardless of what railroad it might have been. I don't know as to whether the E. J. & E is a belt line in the Chicago district or not. I am not familiar with the road. I know that it is in Western Trunk Line Territory, and that it is a road haul carrier. I under-

stand that the L. S. & Ishpeming Railroad is in the upper peninsula of Michigan. I picked that out because it is in the Western Trunk Line Territory just like several of the others. I have heard of the Fort Dodge, Des Moines & Southern, but did not include it. The L. S. & I was included in Exhibit A-39 and also in Exhibit A-80 just offered the other day (Tr. 4970-4971).

As a matter of fact all of the lines were included in Ex- [fol. 726] hibit No. A-39, and also in Exhibit No. A-80, with the exception of that Exhibit No. A-39 and No. A-80 so far as Western Trunk Lines are concerned do not include the C. & E. I. and the E. J. & E. Now in addition there is included in those exhibits, which I have not included, that is so far as Western Trunk Line Territory is concerned, the Chicago, Peoria & St. Louis, which line I understand is not in operation, the D. T. & W., the Union Pacific System, the Great Northern and the Northern Pacific, I have not included those because while they had perhaps some mileage in Western Trunk Line Territory they are rather remote but exhibit No. A-39 and No. A-80, as I said, included all of the lines which I have included with the exception of the E. J. & E. and the C. & E. I. In selecting the Southwestern Lines I took all class I roads (Tr. 4972).

Referring to page 36 of Exhibit A-124, the last two columns, to the right, showing increase in tons one mile per mile of road means the excess of the Western Trunk Lines over the Southwestern Lines for each of the years; for example, the figures shown in the second to the last column, that is the difference between the figures shown in the fourth column from the left, and the figures shown in the eighth column from the left. Or, take for example, the year 1916. Southwestern carriers show a deficit of tons one mile per mile of road of 785,212, the Western Trunk Lines 1,132,555; that is an increase for the Western Trunk Lines over the Southwestern Lines of 347,343 as there shown (Tr. 4972-4973).

Some of the exceptions which I took to Mr. Parsons' exhibits were directed to the fact that in figuring the revenues he used in getting his averages per mile of line and so forth, he did not include certain miscellaneous revenues. The exclusion of that miscellaneous revenues was made with respect to each carrier shown on the exhibit. In another of

my exhibits the total revenue, including the revenue to [fol. 727] which I have referred, is shown for one of the years, but in the application to the expenses the miscellaneous revenues were not used. Mr. Parsons simply took the freight revenue. Now as to the same error or the same amount of difference applying to all of the lines shown, I would like to make the statement on that that there would not be any real objection so long as the ratio of these miscellaneous earnings to the total freight revenue were about the same on all lines, but they are not the same, they are not even approximately the same because there is quite a difference between the ratio of the miscellaneous freight operations to the total freight revenue as between the different lines. It shows in the exhibit. It is set out separately. I tried to point out that particular lines with the same mileage like the Santa Fe and the Milwaukee, that the Milwaukee has about twice as much miscellaneous freight operations as the Santa Fe. The exclusion of that revenue would not result in a substantial difference. It is a difference and the increases are not correct. It is not substantial at all (Tr. 4973-4974-4975).

The oil as shown in the lower half of page 2 in Exhibit A-125 shows that the proportion that the lines north got out of the revenue was 50 per cent; in other words they have got 50 per cent of the revenue from oil through all gateways and had 52 per cent of the service. The lines south, or the Southwestern Lines, had 50 per cent of the revenue and had 48 per cent of the service; practically a mileage pro-rate (Tr. 4975-4976).

The following is quoted verbatim from the transcript of testimony:

Exam. Disque: Does this case involve individual commodities or all traffic or both?

Mr. Towner: All traffic.

[fol. 728] Mr. Roberts: All traffic.

Exam. Disque: Does it involve individual commodities?

Mr. Towner: It involves everything as I understand it.

Mr. Roberts: Yes (Tr. 4976).

Page 42 of Exhibit A-124 shows the traffic density of the various lines for the year 1924. That page shows that if

the E. J. & E. were eliminated that would not have a very material effect on the average density in Western Trunk Line territory. That is because the E. J. and E. out of the total of 81,000,000 ton miles represent only about 1,500,000 ton miles, leaving off the thousands. If the L. S. & I. were left out that would tend to increase the average density because the density of that line is lower than the average. Leaving out both of those lines would very little affect the totals. In selecting the lines I selected them without regard to their density, whether they had a heavy density or light density. These lines are not hand-picked. I tried to show the condition in the two territories as near as I could. If these lines were hand-picked I would have said that I was a mighty poor picker by including the D. S. S. & A. and Green Bay & Western and the L. S. & I. from the standpoint of density, because all of those lines are very, very light density. The operated mileage of the E. J. & E. in Western Trunk Line Territory is 459.77 miles out of 65,866.32 miles for the year 1924 (Tr. 4977-4978).

I said that the oil through all of the gateways is 58 per cent of the tonnage. Those figures were taken from Exhibit A-60. Whatever is in Exhibit A-60 if that has included oil originating on short lines why that figure does include it, but I am not familiar with what is included in Exhibit A-60 with regard to that item. If Exhibit A-60 does not include the oil originated by the short line such as the Midland Valley or the Dayton & Goose Creek, why the oil tonnage would [fol. 729] be correspondingly increased in the amount produced by those and similar short lines. I took Exhibit A-60 at its face value (Tr. 4978-4979).

Exhibit A-125 shows that based on Exhibit A-60, introduced by the Western Trunk Lines, the revenue on lumber today is divided practically on a mileage pro-rate. The figures for lumber through all gateways in Exhibit No. A-125 is shown on page 2. This shows that the lines north or in Western Trunk Line territory has 36 per cent of the revenue and 38 per cent of the haul. The lines south, or the Southwestern Lines had 64 per cent of the revenue and 62 per cent of the haul (Tr. 4979-4980).

Oil and lumber combined constitute 78 per cent of the tonnage and 66 per cent of the revenue on the entire traffic interchange (Tr. 4980).

Attorney Towner here said that in Mr. Balch's exhibit the name of the originating carriers where a shipment came off the short line and the point of origin, the junction by which it came to the trunk line for the haul to the north was shown, that Exhibit A-60 included all lumber originating in the Southwest in June 1924—that is, all revenue under the joint rates (Tr. 4980-4981).

Attorney Muckley thereupon said that he had referred to witnesses for the Milwaukee and Northwestern Roads who testified their unit operating costs were higher than that territory outside of Western Trunk Line territory; that the testimony for the Northwestern was found on 4525 of the transcript of the record and the testimony for the Milwaukee was found on page 4594 of the record (Tr. 4981-4982).

[fol. 730] C. C. DANA was thereupon recalled as a witness and testified as follows:

Direct examination:

I am Assistant freight traffic manager of the A. T. & S. F. Railway Company with headquarters at Chicago. I have held that position for about four years.

(Attorney Towner here said that Mr. Dana was qualified to testify.)

The first six years of my connection with the company was spent in the operating department as a clerk in the superintendent's office and as a local agent. I think because of the character of the testimony I shall offer I should like to review very briefly some of the positions which I have held with the company. For fifteen years, between 1898 and 1913 I was traveling and division freight agent in charge of our lines east of the Missouri River with the exception of the territory lying within the switching limits of Kansas City and Chicago, and in addition thereto had jurisdiction over off line solicitation in portions of Missouri, Iowa and Illinois. My duties of course as traveling division freight agent on the line required me to keep in very close touch with the situation as to grain and live stock and so forth. Following that I spent three years from 1913 to 1916 as industrial commissioner for the company with

jurisdiction over all of the system lines. Then I spent four years in the Panhandle of Texas except for a period of about seven or eight months in Washington with the Railroad Administration and then came back to Chicago. Now during the period of my experience as industrial commissioner and following that as general freight and passenger agent of the P. & S. F. Railway and assistant general freight agent of the A. T. & S. F. Railway in New Mexico, then as general freight agent in Chicago and subsequently as assistant freight traffic manager, I was called upon by the president's office at various times to make reports upon [fol. 731] the traffic situation on other lines, the acquisition of which was under consideration; also reports as to the possible expansion of our lines in new territory and other reports as to terminal situations (Tr. 4982-4983).

I have tried to deal in as brief a way as possible with the rates themselves that are involved in this case and following that with the divisions to and from all of the territory involved. The Southwestern Lines, believing a history, insofar as it is available, of the class rates and of the class and general commodity divisions between Texas Common Points and points in Western Trunk Line territory east of the Missouri River would be helpful in reaching a decision in this proceeding, submit the following: The records of the Texas Traffic Association, the organization of the Southwestern Lines of that time, show that there were through rates in effect from or to Chicago and Milwaukee territories and Texas points via East St. Louis or Kansas City as early and possibly prior to 1888. The first specific information, however, as to the actual rates and the basis upon which they were constructed appears in Circular No. 102 of the International Association, issued January 4, and effective February 20, 1889. This circular authorized the construction of class rates to or from Chicago territory on the basis of the following arbitraries over East St. Louis: Class 1, 20; 2, 16; 3, 12; 5, 10; 5, 7; A, 9; B, 8; C, 7; D, 6; E, 5, and to or from Milwaukee territory on the basis of the following arbitraries over East St. Louis; Class 1, 26; 2, 21; 3, 16; 4, 13; 5, 9; A, 11; B, 10; C, 9; D, 8; E, 7 (Tr. 4984-4985).

The record does not disclose what the base class rates from East St. Louis-St. Louis were nor have we been able

to locate the tariffs in effect at this same time. It is clearly [fol. 732] shown, however, by the records examined that as of November 2, 1891, the class rates between East St. Louis-St. Louis and Texas Common Points were: Class 1, 133; 2, 117; 3, 102; 4, 92; 5, 72; A, 76; B, 67; C, 57; D, 46; E, 39, and that as of December 1, 1892, the class rates from Chicago territory to Texas Common Points via East St. Louis or Kansas City were: Class 1, 153; 2, 133; 3, 114; 4, 102; 5, 79; A, 85; B, 75; C, 64; D, 52; E, 44.

These Chicago rates are exactly the arbitraries over East St. Louis-St. Louis of which we first found record in February, 1889. The record also shows in Circular Letter No. 30, February 27, 1891, issued by S. P. Brown, Chairman of the Chicago, and St. Louis Association and reporting the proceedings of a conference of representatives of the Chicago & Alton, C. B. & Q., C. & E. I., Illinois Central and Wabash railroads, lines members of his association, with Chairman Faithorn of the Southwestern Railway & Steamship Association that it was agreed at that time to apply the Chicago basis of rates between Milwaukee territory and Texas Common Points. The proceedings do not give the effective date of the change but that it became operative at some short time subsequent to February 27, 1891, is evidenced by the fact that other records show the Chicago rates actually in effect from Milwaukee on December 1, 1892. Since the meeting was called by Chairman Brown it seems fair to assume that it was his lines which sought the reduction (Tr. 4985-4986).

March 15, 1903, the basic scale from St. Louis was increased to $1.37 first class and again advanced, August 10, 1908, to $1.47 first class with the customary relationship for the lower classes. This last advance resulted in com- [fol. 733] plaint by the Railroad Commission of Texas, Case No. 1675 reported in 20 I. C. C. pages 463 to 485. In its decision the Commission found that reasonable rates for the future should not exceed: Class 1, 147; 2, 125; 3, 104; 4, 96; 5, 75; A, 79; B, 70; C, 58; D, 46; E, 39. During all of the period in which these increases were being made in the basic class rates from East St. Louis-St. Louis no change was made in the class scale of arbitraries Chicago over St. Louis and on June 24, 1918, we find exactly the same scale of arbitraries in effect as we first found record of in February, 1889 (Tr. 4986).

The $1.47 class scale, fixed by the Interstate Commerce Commission as reasonable, has been continued, except as modified by the general increases and decreases which have taken place in all of our rates, to the present day and is now from East St. Louis-St. Louis: Class 1, 223½; 2, 190½; 3, 158; 4, 146; 5, 114½; A, 120; B, 106; C, 88; D, 70; E, 59½.

What is true of the St. Louis basic scale is likewise true, speaking generally, of the arbitraries Chicago over St. Louis, the present scale being: Class 1, 30½; 2, 24; 3, 18½; 4, 15; 5, 10; A, 13½; B, 12½; C, 11; D, 9; E, 7½. Anticipating for a moment the history as to divisions it will be shown later that the agreed basis of divisions of the joint class rates from Chicago to Texas Common Points in effect as early as October, 1892, was 20 per cent to the lines north of East St. Louis-St. Louis which basis has been continued in effect to the present day. Let us now compare the divisions of the joint class rates in effect from Chicago to Texas Common Points December 1, 1892, the amounts in cents per 100 pounds by which those divisions exceeded the then arbitraries and the percentage relationship those divisions bore to the then arbitraries with exactly the same informa-
[fol. 734] tion as to the current divisions. For this purpose I have prepared a statement which I will introduce as Exhibit No. A-126 (Tr. 4987).

(Exhibit A-126 was received in evidence.)

[fol. 735] The exhibit shows that the class proportions in 1892 exceeded the arbitraries, Chicago over St. Louis, by amounts varying from 3.8 cents on Class E to 10.8 cents per 100 pounds on third class while on December 1, 1925 and currently they exceed the arbitraries, Chicago over St. Louis, by amounts varying from 5.9 cents on Class E to 20.3 cents per 100 pounds on first class, notwithstanding the fact the arbitraries themselves have been increased only by amounts varying from 2½ cents on Class E to 10½ cents on first class; also that the percentage relationships of the current proportions to the current arbitraries exceed as to all classes, except B and C, those as of December 1, 1892. This means that the lines north of St. Louis-East St. Louis are relatively better off as to divisions on this Texas traffic than they were in 1892 and this is due in part, though

not entirely, to the increases which were made in most of the base class rates, which are also the local rates, from St. Louis-East St. Louis in which to the extent of their percentage proportion the lines north participated. To illustrate, if the first class rate of $1.33 from St. Louis-East St. Louis to Texas Common Points had not been increased to $1.37 and then to $1.47 prior to General Order No. 28, but has remained in effect up to that time the present first class rate from Chicago to Texas Common Points would be $2.33 instead of $2.54 and the proportion for the lines north 46.6 cents instead of 50.8 cents as it is. What is true of the divisions via St. Louis-East St. Louis is also true of those via Kansas City, though the amounts of course, will differ. In other words, not only do the proportions accruing to the lines north of St. Louis-East St. Louis exceed the arbitraries over those points but they have actually shared in the increase of the local rates from those points to Texas Common Points (Tr. 4987-4988-4989).

[fol. 736] Since the preparation of this exhibit we have found that the scale of class rates in effect from St. Louis-East St. Louis immediately prior to the $1.37 scale was not the $1.33 scale to which I have referred but the following: Class 1, 130; 2, 113; 3, 97; 4, 90; 5, 70; A, 74; B, 65; C, 54; D, 43; E, 36. This scale, as is shown on page 266 of I. C. C. Reports, volume XI, became effective December 4, 1893, and is the scale which was increased March 15, 1903, to $1.37 first class, with corresponding increases in the other classes, instead of the $1.33 scale previously mentioned. To this $1.30 scale the same arbitrary scale, commencing with 20 cents first class, was added to make rates from Chicago out of which the lines north of East St. Louis-St. Louis received the same proportion of 20 per cent.

Had the comparison in my exhibit A-126 been drawn between the rates and divisions from Chicago to Texas Common Points via East St. Louis-St. Louis in effect December 4, 1893 or March 14, 1903 and those of December 1, 1925, the increase in revenue resulting to the lines north because of the subsequent increases in the local rates from East St. Louis-St. Louis to Texas would have been even greater than I have just recited. To illustrate under General Order 28, Ex Parte 74 and Reduced Rates 1922 the first class rate of

$1.30 from East St. Louis-St. Louis would have become $1.97½ and from Chicago $2.98, 20 per cent of which would have equalled 45.6 cents in place of the present proportion of 50.8 cents (Tr. 4989).

Turning now to the divisions themselves, it is evident since there were joint through rates in effect between Chicago and Milwaukee territories and points in Texas as early as 1888 that there must have been some basis for dividing them. The first official record, however, of any of the divisions is the publication by the Southwestern Railway & [fol. 737] Steamship Association, September 21, 1891, of a proportion of 25 per cent to the lines east of Kansas City on Chicago traffic; with authority shown as Chicago, St. Paul. & Kansas City (now Chicago Great Western) Division No. 314-B, Series B.

The next record we were able to find is contained in the printed proceedings of a meeting of the Southwestern Railway & Steamship Rate Committee held in October, 1892, at which a communication was read from Mr. S. P. Brown, Chairman, Chicago & St. Louis Traffic Association, stating the members of that organization were willing to accept 20 per cent north of East St. Louis on all classes, but that they felt it to be an injustice to impose the condition that local rates should be the maxima. The Milwaukee territory divisions via East St. Louis of 20 per cent on classes one, two and three and 22 per cent on the other classes were also reported at the same meeting as having been agreed to by the northern lines (Tr. 4990).

The first agency issue, containing these as well as divisions between other territories and Texas Common Points, including Houston and Galveston which we have been able to locate, is Southwestern Railway & Steamship Rate Committee Division Sheet No. 2 which became effective December 1, 1892. This publication contained class and a limited number of commodity divisions, all expressed cents per 100 pounds north and south of the interchange points but all predicated on a percentage basis shown at the foot of each page. The class divisions in so far as Chicago and Milwaukee territories were concerned applied between. The commodity divisions applied southbound only. Via East St. Louis, East Louisiana, East Hannibal and East Fort

Madison the lines north received on Chicago territory traffic [fol. 738] 20 per cent and on Milwaukee territory traffic 20 per cent on first, second and third classes and 22 per cent on other classes and commodities; via Cairo, Illinois, and Columbus, Kentucky, on Chicago territory traffic 22 per cent and on Milwaukee territory traffic 22 per cent on first, second and third classes and 24 per cent on other classes and commodities. Via Kansas City or St. Joseph the proportion to the lines east and north on both Chicago and Milwaukee territories traffic was 25 per cent. A division was also published via White City, Kansas, 135 miles west and south of Kansas City, presumably in connection with the Rock Island and M. K. & T., the lines east and north being allowed 25 per cent plus 5 cents per 100 pounds (Tr. 4991).

This same issue carried divisions between points in Iowa taking Chicago rates and Texas Common Points via St. Louis, Kansas City and Moberly, Missouri, the basis being 25 per cent on first, second and third classes and 19 per cent on the other classes and commodities, with, in the case of St. Louis, an addition of 5 cents per 100 pounds to or from points on and west of the Iowa Central (Now M. & St. L.) and in the case of Moberly a deduction of 5 cents per 100 pounds to or from points east of the Iowa Central. Points in Fox River territory, as it was then constituted, were taken care of by a provision that the lines south of the Mississippi and Missouri Rivers would receive the same proportions on business from Fox River District as they received on Milwaukee business. In all cases the lines east or north of the points of interchange with southwestern lines were limited to their local rates as maxima. No provision was made in Division Sheet No. 2 for divisions via Chicago, Illinois; Marshalltown, Des Moines or Council Bluffs, Iowa; or Omaha, Nebraska. These, as will be shown [fol. 739] later, came into existence because of competition among the Southwestern carriers. The divisions via East Fort Madison, Illinois, and upper Mississippi River crossings were, in my judgment, shown in the division sheet for the purpose of taking care of traffic from or to the then Central Traffic Association territory, the rates at that time dividing on a percentage basis which differed via the upper crossings from that via East St. Louis (Tr. 4992-4993).

Divisions via Omaha, Nebraska, first appeared in Southwestern Traffic Association Division Sheet No. 4, issued and effective November 27, 1894. The territorial description shows they were restricted to points in Iowa taking Chicago rates. On and west of then Iowa Central the lines east of Omaha received 20 per cent, the division via Kansas City being 25 per cent. From points taking Chicago rates east of the Iowa Central the proportions to the lines east via both Omaha and Kansas City were 25 per cent. In this same issue there appeared a provision which apparently paved the way for all of the subsequent divisions via Chicago. The lines operating via New Orleans published divisions either in arbitraries or per cents which had the effect of allowing the lines north of Chicago on business from Milwaukee, Wisconsin, or Milwaukee territory destined to Texas Common Points, including Houston and Galveston, 30 per cent of the current Milwaukee-East St. Louis proportions; the remainder of the through rates to be subdivided on basis of Chicago divisions (Tr. 4993).

Next came the publication in Supplement No. 2 to Division Sheet No. 4 effective January 1, 1895, of divisions via [fol. 740] Omaha on traffic from Chicago and points taking Chicago rates, the proportion to the lines east being 25 per cent, the same as via Kansas City. These divisions were cancelled in Supplement No. 5, effective February 23, 1895, but reappeared in Supplement No. 6 effective March 27, 1895, and were carried in Southwestern Traffic Association Division Sheet No. 5, which canceled Division Sheet No. 4 and became effective May 21, 1895 (Tr. 4993-4994).

During the period between 1895 and 1902 the committee issues do not reflect any material change in the divisions already in effect. There were some additions, however, notably the establishment of percentages on traffic from points on the Mississippi river Davenport-Rock Island to Quincy inclusive; also from points in Missouri north of the Missouri River which took St. Louis rates or higher. The proportions via St. Louis-East St. Louis, fixed at that time, were practically the same as are now in effect; via Kansas City, however, the then proportions accruing to the lines east and north were somewhat lower than now. The records of this time also show that more or less successful at-

tempts were made by the Southwestern Lines operating via lower Missouri river crossings only, to restrict the revenue to the lines east and north on traffic handled via Council Bluffs-Omaha to that which would accrue to the direct Kansas City lines, it being understood that the percentage allowance east of Omaha on business handled direct from Omaha to Texas by the Rock Island or Missouri Pacific would continue in effect and that a somewhat different basis established by the Kansas City Southern would not be affected (Tr. 4994).

The next important change came on August 20, 1902, [fol. 741] when one of the Southwestern lines operating from Kansas City gave individual notice of the establishment of a basis of divisions via that gateway which materially increased the proportions previously accruing to the lines east and north. The divisions on Chicago and Milwaukee territories' traffic were advanced from 25 to 30 per cent; on northern Iowa traffic from 25 to 27½ per cent; on Davenport, Rock Island, Moline, Muscatine, Burlington and Fort Madison traffic from 20 to 23½ per cent on Texas Common Points and 20 to 25 per cent on Houston and Galveston; and on Quincy and Keokuk traffic from 20 to 22 per cent on Texas common Point- and 20 to 23 per cent on Houston and Galveston. The increase in the divisions on Milwaukee territory traffic also resulted in an increase on Fox River territory traffic, the latter being determined by the addition of arbitraries to the Milwaukee proportion. Practically all of the Texas lines regardless of whether or no they reached the Missouri River immediately filed individual notices with the chairman of the then Southwestern Tariff Committee providing that the increased divisions set forth in the preceding paragraph would not apply on traffic, to, from or via their respective lines. But carrier competition soon forced the other Texas lines reaching Kansas City to make the increased divisions effective in connection with their respective lines and in September, 1903, the chairman issued circular No. 1773-C to that effect. The important lines in southern Texas, however, which did not reach the lower Missouri river crossings still refused to concur in the increased basis and continued to demand a proportion on the traffic they handled based on the divisions in effect prior to August 20, 1902 (Tr. 4995-6).

[fol. 742] Meanwhile the records of the Southwestern Tariff Committee of this and succeeding years show it was becoming more and more apparent to the member lines that divisional arrangements carried in individual issues were at variance with or included interchange points other than those carried in the committee division sheet. Accordingly a committee was appointed early in 1905 and various conferences were held in an endeavor to base all the divisions on Texas traffic with lines east of the Missouri river over St. Louis and Kansas City, cancelling those which had been made by individual lines via Chicago, Illinois, Marshaltown and Des Moines, Iowa, and so forth, and making the proportions to the lines east to or from Chicago and Milwaukee territories 25 per cent via Omaha and 30 per cent via Kansas City, these proportions to subdivide via interior Western Trunk Line interchange points on Omaha or Kansas City proper per cents (Tr. 4996).

Where I refer to division of rates north of St. Louis, I should always refer to St. Louis-East St. Louis. The effort was not successful and in Supplement No. 9 to Southwestern Tariff Committee Division Sheet No. 18, effective on various dates in May, 1905, the following divisions to the lines east or north appeared in a committee issue for the first time. Between all points on the C. & N. W.—C. M. & St. P. and Wisconsin Central Railways in Milwaukee territory and Texas Common Points or lower via Hannibal, East Hannibal and East Louisiana 27½ per cent. Between points on C. & N. W. and C. M. & St. P. Railways in Chicago and Milwaukee territories and Texas points via Council Bluffs or Omaha 30 per cent. Between all points in Milwaukee territory and Texas points via Chicago 15 per cent. Between all points on the C. & N. W. Railway in Illinois and Iowa, also points on the C. & N. W. in Mil- [fol. 743] waukee territory and Texas points via Marshalltown, Iowa, 22 per cent.

Since 1905 there have been no material changes in the divisions on Texas traffic and the divisions then in effect are, speaking generally, effective today. The Marshalltown divisions are in effect now. From certain territories there are junctions between Kansas City and St. Louis like Moberly, and I think the division sheets still carry some by Higby (Tr. 4997-4998).

My next exhibit No. A-127 and testimony in connection therewith deals with the additional revenue which is likely to accrue to lines east of the Missouri River by reason of increases in divisions on transcontinental and trans-Missouri traffic which became effective July 1, 1925. The estimate includes the increases to all lines east of the Missouri River, except that I have excluded increases which might accrue to the A. T. & S. F. Railway on its own transcontinental traffic. I can see no justification for restricting the increase to any particular group of lines. If the divisions east and west of the River were unjust and unreasonable, they were unjust and unreasonable for the A. T. & S. F., C. B. & Q., C. M. & St. P., and C. R. I. & P. Railways as east of Missouri River lines, just as much as any other lines. Because of the method employed there is a very wide difference between figures which I shall submit and those offered by Mr. Parsons (Tr. 4998).

Exhibit No. 227 submitted by Agent Toll of the Trans-Continental Freight Bureau at the hearing covering the transcontinental phase of I. C. C. Docket No. 15234 showed among other things the tons handled and revenue accruing [fol. 744] to the Western Trunk Lines east of the Missouri River on the one hand and to all of the lines west of the Missouri River on the other hand on carload freight, other than North Coast lumber, handled by the A. T. & S. F. Railway, Southern Pacific Company (Pacific System), Union Pacific System and Western Pacific Railroad originating or terminating in Pacific Coast territory and moved via Missouri River gateways to and from points east thereof in Western Trunk Line territory or beyond. The period covered was March, June, September and December, 1923, these months being regarded as representative of the other two thirds of the year. In the individual statements from which Mr. Toll compiled his exhibit none of the four transcontinental lines named included any traffic originating or terminating on any of the other three roads. Consequently there was no duplication of movement from which it follows that a fairly accurate estimate, based upon the figures in Mr. Toll's exhibit can be made of the increased revenue accruing to the Western Trunk Lines east of the Missouri River on this particular traffic by reason of the increased divisions (Tr. 4999).

Exhibit No. A-127 which I will now introduce is a duplication of that part of Mr. Toll's Exhibit No. 227 necessary to this computation. The last column shows the increased revenue to Western Trunk Lines east of Missouri River resulting from the increase in divisions on trans-continental traffic. The total for the four months period, excluding the increase on traffic handled by the A. T. & S. F. Railway both east and west of the Missouri River was $700,226.00. Assuming the same relative volume of traffic for the other eight months of the year the annual increase on Pacific Coast traffic, other than North Coast lumber, handled by the four-trans-continental lines in question would amount to $2,100,678.0. This figure does not include [fol. 745] the increase on less than carload traffic, of which there is a considerable volume westbound nor does it take into account the loss in revenue to Western Trunk Lines east of the Missouri River on North Coast lumber delivered by the Union Pacific at Missouri River gateways. Figures submitted at various conferences of the Trans-Continental Lines indicate that the increase on less than carload traffic would just about offset the loss on Union Pacific lumber. There has been no appreciable change in the rates on or in the volume of trans-continental traffic since these figures were made in 1923 from which it follows this estimate may safely be applied to current business. That is via the Missouri River. I have only dealt with that so far (Tr. 4999-5000).

No figures were put into the record upon which to base an estimate of the increase in revenue accruing to Western Trunk Lines on trans-continental traffic interchanged with the Great Northern, Northern Pacific and Chicago, Milwaukee & St. Paul. Statements, however, of traffic executives of the North Coast lines both before and subsequent to the hearing upon the trans-continental phase of I. C. C. Docket No. 15234 make it certain increased revenue has resulted to the Western Trunk lines as a whole by reason of the increase in the general basis per cents notwithstanding the fact there has been a loss of revenue on the lumber traffic due to the application of such per cents thereto. What the increase has amounted to in dollars I cannot say. No testimony was offered or exhibits submitted in the

Trans-Missouri phase of I. C. C. Docket No. 15234. Consequently there has not been the same opportunity to make [fol. 746] an estimate based upon the aggregate of the traffic interchanged during a certain period as existed in the case of trans-continental traffic. I have been able, however, to obtain from the A. T. & S. F. Railway, C. R. I. & P. Railway, Missouri Pacific Railroad and Union Pacific Railroad estimates, prepared by the accounting and traffic departments, of the annual loss to those lines west of the Missouri River on Trans-Missouri traffic interchanged with lines other than their own east of the Missouri River. Based upon these estimates I believe the annual increase in revenue to the lines east of the Missouri River on Trans-Missouri traffic will amount to not less than $1,000,000.00, making the total annual increase resulting from divisions already in effect $3,100,000.00 (Tr. 5001-5002).

The Western Trunk Lines east of the Missouri River are put to no additional expense by reason of this increase. It is an addition to their net railway operating income; that is to their net operating revenue after taxes, uncollectible revenues and equipment and joint facility rents have been deducted. Conversely it is of course an actual loss in net railway operating income to the lines west of the Missouri River (Tr. 5002).

(The statement referred to by the witness was thereupon received in evidence as Exhibit A-127.)

[fol. 747] The statement with respect to the Trans-Missouri estimate would not represent the net loss for the A. T. & S. F. We would have some pick-up, but it would not anywhere near equal our loss. The Rock Island would have some pick-up too, and the Missouri Pacific some pick-up, but in each instance the pick-up would not equal the loss. The Union Pacific of course would have no pick-up at all and I might add that presumably there was some transfer of revenue for the account of such lines as the C. B. & Q. and the C. & N. W. which I have not been able to estimate or get any figures.

Exhibit No. A-128 consisting of one page is a statement showing the average density of population per square mile and per mile of line as of 1920 for the five Western Trunk

Line states, the four purely Southwestern states and the six states south and west of the Missouri River from, to or through which southwestern and particularly Texas traffic and Louisiana traffic which divides on the Texas divisions flows. In all of my exhibits dealing with density I have not included the Dakotas in Western Trunk Line territory. This for the reason they have no proper place in this proceeding. There is, speaking generally, no basis of class and miscellaneous commodity rates between points in these states and the southwestern states. The divisions upon such traffic as moves have been made from time to time by special agreement between the carriers as the rates have gone into effect and in nearly all instances the rates deal only with specific commodities. The volume of traffic moving between either North or South Dakota and the States of Arkansas, Oklahoma, Louisiana and Texas is infinitesimal as compared with the entire movement. In proof of this statement I submit the fact that out of the [fol. 748] total movement of 12,731 cars for June, 1924, as shown by witness Balch's Exhibits A-41 to A-49, both inclusive, there were just two cars shown for both of the Dakotas. Because of the difficulty of accurately segregating the population in Missouri between the Western Trunk and Southwestern lines that state has been included in both the first and last groups as just described. Since the density of population is unquestionably greater in that portion of the state served by Western Trunk Lines than it is in the Southwestern lines portion the failure to segregate works somewhat to the advantage of the former (Tr. 5003-5004).

In this and exhibits which follow dealing with density figures of either population or traffic, only the total average density figures for the states by groups will be commented upon. I do not believe you can fairly separate one state from the rest. The divisions on the traffic from, to or through all of the Western Trunk Line states is involved and in its movement via Kansas City two and sometimes three of the W. T. L. states other than that of origin or destination are traversed. For instance, traffic between Wisconsin and the southwest moves in large volume through Illinois, Iowa and Missouri; Illinois and beyond traffic

through Iowa and Missouri; Iowa traffic interchanged at the St. Louis-East St. Louis gateway through Missouri and frequently through Illinois; and Wisconsin traffic interchanged at the St. Louis-East St. Louis gateway almost entirely through Illinois (Tr. 5004-5005).

Certainly the Western Trunk Lines states cannot be considered aside and apart from Illinois unless the divisions on traffic from, to and beyond that state are to be dealt with separately on the basis of its density alone. A check of Mr. Balch's Exhibits A-41 to 49 inclusive shows that based upon carloads handled 40.16 per cent of all the traffic interchanged [fol. 749] with Southwestern lines originated or terminated in Illinois. This is nearly double the total for all of the other Western Trunk Line states combined. To this should also be added 36.67 per cent of Illinois-beyond traffic, that is traffic from or to points in Official Classification territory, making a total of 76.83 per cent of all of the traffic interchanged during the month of June, 1924, as shown by Mr. Balch's exhibits. That is either to, from or through Illinois (Tr. 5005-5006).

(The statement referred to by the witness was thereupon received in evidence as Exhibit A-128.)

[fol. 750] Speaking now specifically of my Exhibit A-128 it will be noted the average density of population of the Western Trunk Line states is 229.8 per cent per square mile and 119.2 per cent per mile of line of that of the Southwestern states and 205.6 per cent per square mile and 120.7 per cent per mile of line of that of the states through and from or to which Southwestern traffic flows (Tr. 5006).

Exhibit No. A-129 consisting of four pages shows the freight traffic density by states and groups of states, page one covering the calendar year 1922; page two, 1923; page three, 1924; and page four a recapitulation of the totals or averages by groups of states for the three years named. There are a few corrections which I wish to call attention to not because they really affect the figures with which I shall deal but because somebody might find them and say there was something wrong with the exhibit. On page two in the last column in the last block the average tons one mile per mile of line should be $830,108.00 instead of $830,345.00. Now that would have the effect of just raising the ratio

which is shown immediately below there 186.8 per cent to 186.9 per cent. On page 3 in the last column tons one mile per mile of line in the first block opposite Missouri that should read one million five hundred and forty-five thousand five hundred and thirty eight instead of one million five hundred and forty four thousand nine hundred and sixty two. That of course has no effect on the average. And on page 4 in the last column in the tons one mile per mile of line, last block, for the year 1923, it should read $830,108.00 instead of $830,345.00. Mr. Press' figures would figure it for individual lines and mine are density figures for the states. He dealt with certain lines in certain states and included lines that extended beyond those states of course (Tr. 5006-5007).

[fol. 751] Attorneys Muckley and Roberts here explained that Exhibit A-129 showed the traffic density in the states themselves, whereas Mr. Press' figures showed the density for the lines of the entire systems of railroad which he dealt with (Tr. 5008).

(The statement referred to by the witness was thereupon received in evidence as Exhibit A-129, which said exhibit is in words and figures as follows:)

[fol. 752] EXHIBIT No. A-129

Witness: Dana

Page 1

I. C. C. Docket No. 15234

Statement of Freight Traffic Density by States and Groups of States for Calendar Year 1922

States	Average mileage operated, single track	Number of tons carried one mile	Tons one mile per mile of line
Western Trunk Line States			
Illinois	8,726.62	21,186,976,361	2,427,856
Iowa	10,087.97	9,264,552,986	918,376
Missouri x	3,477.02	5,004,160,594	1,439,210
Nor. Michigan	1,547.20	1,014,603,024	655,767
Wisconsin	7,127.43	7,457,308,084	1,046,283
Minnesota ø	5,641.18	5,717,585,291	1,013,544
Total or Average	36,607.42	49,645,186,340	1,356,151
Southwestern States			
Arkansas	3,993.57	3,494,525,623	875,038
Oklahoma	6,338.52	4,411,226,387	695,939
Louisiana	3,678.04	2,564,735,075	697,310
Texas	14,473.12	9,004,934,199	622,183
Total or Average	28,483.25	19,475,421,284	683,750

Average density of Western Trunk Line states 198.3% of that of Southwestern States.

States South and West of Missouri River			
Missouri x	4,260.88	3,852,944,237	904,260
Kansas	9,163.88	7,342,512,587	801,245
Arkansas	3,993.57	3,494,525,623	875,038
Oklahoma	6,338.52	4,411,226,387	695,939
Louisiana	3,678.04	2,564,735,075	697,310
Texas	14,473.12	9,004,934,199	622,183
Total or Average	41,908.01	30,670,878,108	731,862

Average density of Western Trunk Line States 185.3% of that of states thru and from or to which Southwestern traffic flows.

x Segregation of lines in Missouri same as shown in Witness Parsons' Exhibit A-39.

ø Great Northern added to Minnesota lines as shown in Witness Parsons' Exhibit A-39.

[fol. 753] EXHIBIT No. A-129

Page 2

Witness: Dana

I. C. C. Docket No. 15234

Statement of Freight Traffic Density by States and Groups of States for Calendar Year 1923

States	Average mileage operated, single track	Number of tons carried one mile	Tons one mile per mile of line
Western Trunk Line States			
Illinois	8,715.51	24,275,927,106	2,785,371
Iowa	10,083.91	10,267,046,394	1,018,161
Missouri x	3,475.00	5,350,838,768	1,539,810
Nor. Michigan	1,542.09	1,279,195,541	829,521
Wisconsin	7,162.56	8,853,214,288	1,236,041
Minnesota ø	5,640.96	6,787,342,056	1,203,225
Total or Average	36,620.03	56,813,564,153	1,551,434
Southwestern States			
Arkansas	4,295.77	4,494,510,599	1,046,264
Oklahoma	6,272.93	4,938,174,316	787,220
Louisiana	3,557.79	2,906,436,109	816,922
Texas	14,609.94	10,125,271,725	693,040
Total or Average	28,736.43	22,464,392,749	781,739

Average density of Western Trunk Line states 198.5% of that of Southwestern States.

States South and West of Missouri River			
Missouri x	4,300.91	4,695,320,766	1,091,704
Kansas	9,239.86	7,934,945,641	858,773
Arkansas	4,295.77	4,494,510,599	1,046,264
Oklahoma	6,272.93	4,938,174,316	787,220
Louisiana	3,557.79	2,906,436,109	816,922
Texas	14,609.94	10,125,271,725	693,040
Total or Average	42,277.20	35,094,659,156	830,108

Average density of Western Trunk Line States 186.9% of that of states thru and from or to which Southwestern traffic flows.

x Segregation of lines in Missouri same as shown in Witness Parsons' Exhibit A-39.

ø Great Northern added to Minnesota lines as shown in Witness Parsons' Exhibit A-39.

[fol. 754] EXHIBIT No. A-129

Page 3

Witness: Dana

I. C. C. Docket No. 15234

Statement of Freight Traffic Density by States and Groups of States for Calendar Year 1924

States	Average mileage operated, single track	Number of tons carried one mile	Tons one mile per mile of line
Western Trunk Line States			
Illinois	8,714.58	22,142,730,040	2,540,883
Iowa	10,088.51	9,813,304,431	972,721
Missouri x	3,475.52	5,371,546,537	1,545,538
Nor. Michigan	1,666.47	1,173,016,727	703,893
Wisconsin	7,159.90	7,931,591,171	1,107,780
Minnesota ø	5,290.59	4,985,464,444	942,327
Total or Average	36,395.57	51,417,653,350	1,412,745
Southwestern States			
Arkansas	4,294.06	4,479,790,911	1,043,253
Oklahoma	6,233.17	5,466,771,016	877,045
Louisiana	3,681.02	3,360,983,798	913,058
Texas	14,538.32	11,806,290,758	812,081
Total or Average	28,746.57	25,113,836,483	873,629

Average density of Western Trunk Line states 161.7% of that of Southwestern States.

States South and West of Missouri River			
Missouri x	4,269.68	4,886,467,023	1,144,458
Kansas	9,311.55	8,793,064,406	944,308
Arkansas	4,294.06	4,479,790,911	1,043,253
Oklahoma	6,233.17	5,466,771,016	877,045
Louisiana	3,681.02	3,360,983,798	913,058
Texas	14,538.32	11,806,290,758	812,081
Total or Average	42,327.90	38,793,367,912	916,496

Average density of Western Trunk Line States 154.1% of that of states thru and from or to which Southwestern traffic flows.

x Segregation of lines in Missouri same as shown in Witness Parsons' Exhibit A-39.

ø Great Northern added to Minnesota lines as shown in Witness Parsons' Exhibit A-39.

[fol. 755] EXHIBIT No. A-129

Page 4

Witness: Dana

I. C. C. Docket No. 15234

Recapitulation of Statements of Freight Traffic Density by Groups of States for Calendar Years 1922, 1923, and 1924

Years	Average mileage operated, single track	Number of tons carried one mile	Tons one mile per mile of line
Western Trunk Line States			
1922	36,607.42	49,645,186,340	1,356,151
1923	36,620.03	56,813,564,153	1,551,434
1924	36,395.57	51,417,653,350	1,412,745
Total or Average	109,623.02	157,876,403,843	1,440,176
Southwestern States			
1922	28,483.25	19,475,421,284	683,750
1923	28,736.43	22,464,392,749	781,739
1924	28,746.57	25,113,836,483	873,629
Total or Average	85,966.25	67,053,650,516	780,000

Average density of Western Trunk Line states 184.6% of that of Southwestern States.

States South and West of Missouri River			
1922	41,908.01	30,670,878,108	731,862
1923	42,277.20	35,094,659,156	830,108
1924	42,327.90	38,793,367,912	916,496
Total or Average	126,513.11	104,558,905,176	826,467

Average density of Western Trunk Line States 174.3% of that of states thru and from or to which Southwestern traffic flows.

Authority for basic figures—Statements Freight and Passenger Traffic Density, Calendar Years 1922, 1923 and 1924, Class One Roads—Western District, prepared by Statistical Bureau—Western Lines.

[fol. 756] The segregation of lines in Missouri as between Western Trunk and Southwestern Lines is the same as shown in Witness Parsons' Exhibit A-39. I think this results somewhat to the advantage of the Western Trunk Lines but I must admit from the figures available it would be difficult to make a fairer division. The Great Northern has been added to the Minnesota Lines as shown in Exhibit A-39 for the reason that there are joint through rates both class and commodity between a number of Minnesota points on the Great Northern and Northern Pacific in view of which it seemed but fair to include one of these lines. Consideration of the divisions of joint rates between respective groups of carriers and the just and reasonable determination thereof should, since they are likely to remain in effect for some time, be predicated, as far as possible, upon the average results of a period of years rather than upon the showing for any one year. Page four of this exhibit shows the totals or averages for the Western Trunk Line states, Southwestern states and states south and west of the Missouri River for 1922, 1923 and 1924 the only years for which these figures are available. It will be noted the average freight traffic density of the Western Trunk Line states for these three years was 184.6 per cent of that of the Southwestern States and 174.3 per cent of that of the states through and from or to which the southwestern traffic flows (Tr. 5008-5009).

The following is quoted verbatim from the transcript of the testimony:

Exam. Disque: Now very little of this business comes from or goes to or goes through Michigan or Wisconsin or Minnesota. Let's average Illinois, Iowa and Missouri and compare that density with the Southwestern density.

Mr. Larimore: 76 per cent of this traffic goes through Illinois.

[fol. 757] Exam. Disque: Some of that is eastern traffic not involved but that is true, also goes through Iowa, some of that business, and Missouri.

By Mr. Muckley:

Q. Will you make up those figures and submit it tomorrow, Mr. Dana?
A. Yes (Tr. 5009).

The segregation is just as Mr. Parsons made it in Exhibit A-39 and what he included as I recall it was, he put the Missouri Pacific in the territory north of the Missouri River and he put the Rock Island in the territory south of the Missouri River, that is my recollection of the description that he made. When I came to list the Southwestern states, I included the south half of Missouri. I think it would be proper to include Missouri, at least half of it in the middle column on the exhibit, along with Arkansas, Louisiana, and Texas, but that did not occur to me. What I was really basing my figures on was the states, to, from or through which the traffic flowed. The south half of Missouri is included in the third column. The state density is all the Western Trunk Line density. These figures are made up from Class 1 railroads in the Western District by Mr. L. E. Wetling, statistician for the Western Lines. It includes no density for the B. & O., Pennsylvania or any other Eastern roads. The density of the Missouri Pacific and Cotton Belt in Illinois is included in the Illinois figures. All of the lines shown by Mr. Wetling in the statistics which he prepares each year are included (Tr. 5010-5011-5012).

There followed a discussion as to the proper method of preparing the traffic density statement. Attorney Muckley then said that he would like to have it the way the examiner suggested, that is, to show the density of Illinois, Iowa and Missouri compared with the four Southwestern states (Tr. 5012-5013).

[fol. 758] Exhibit No. A-130, consisting of two pages shows the population, railroad mileage, and density of population per mile of railroad 1st. In the five Western Trunk Line states east of the Missouri River. 2nd. The four Southwestern states involved in this proceeding, and 3rd. The states south and west of the Missouri River to, from or through which southwestern traffic moves (Tr. 5013).

Page 1 compares the density of population per mile of railroad in 1920 with that of 1880. Referring to the last three columns it will be noted the average density in each of the three groups of states was greater in 1880 than in 1920, and that the Southwestern states considered alone or the states south and west of the Missouri River as a whole had a considerably greater density of population per mile of railroad in 1880 than had the Western Trunk Line states. That is, based upon average density of population per mile of railroad each group of states was better off in 1880 than in 1920, and the Southwestern states or the states south and west of the Missouri River were much better off than the Western Trunk Line group. But even on this page it will be noted that the decrease of density of population per mile of railroad for the Western Trunk Line states was very considerably less than the decrease for either of the four southwestern states shown, or for the Southwestern states from, to or through which the traffic flowed. The average percentage of decrease for the four Western States being 48.4 per cent and for the Southwestern states and other states from, to or through which the traffic moved, 37.4 per cent. In 1920, however, we find the situation reversed. The average density in the Western Trunk Line group is considerably greater than in either the Southwestern group or the group south and west of the Missouri River. In other words, the growth of popula- [fol. 759] tion in the Western Trunk Line states has practically kept pace with the increase in railroad mileage, there being an average decrease in the density of population in these states in 1920 as compared with 1880 of but 2.9 per cent (Tr. 5014-5015).

Page 2 shows a comparison for the same groups of states 1920 versus 1900. Referring again to the last three columns it will be noted the Western Trunk Line states had an actual increase in average density, the per cent of increase 1920 over 1900 being 7.3 per cent. In other words, the growth of population during this period was relatively greater than railroad construction. In the Southwestern states or the states south and west of the Missouri river the increase in railroad construction still exceeded the growth in population, the average decrease in density of

population 1920 versus 1900 being 13.4 per cent in the Southwestern states and 4.3 per cent in the states south and west of the Missouri River. Speaking generally, page 2 of this exhibit shows that the point of railroad saturation in the Western Trunk Line states has been reached. The future growth of population in the territory east of the Missouri River is quite certain to exceed railway construction with the result that the Western Trunk Line states will have a constantly increasing density of population per mile of line. On the other hand, the states south and west of the Missouri River are in part or in whole still in the pioneer or development stage. This is particularly true in the western parts of the states of Kansas, Oklahoma and Texas in which additional railway mileage is likely to be constructed as the necessity arises and conditions warrant for many years to come. In proof of this I need but add [fol. 760] that since 1920 the Santa Fe alone has constructed and placed in service 217 miles of main and branch lines in the states of Kansas and Oklahoma and 63 miles in western Texas, and that there are now before the Interstate Commerce Commission applications by this and other companies which contemplate the construction of 420 additonal miles of main and branch lines the major part of which will be located in western Texas (Tr. 5015-5016).

Since the last group of states on both pages 1 and 2 of the exhibit is intended to include only southwestern states to and from or through which southwestern traffic moves it would, in my opinion, be more representative if Nebraska were omitted. Nebraska is not a southwestern state and only a small part of the traffic involved is handled within its boundaries. With its omission the average per cent of increase in population in this group (see page 1), 1920 versus 1880, would fall from 131.8 to 128.1 and the average per cent of increase in railroad mileage, 1920 versus 1880, would rise from 270.5 to 278.5; the result being that the average per cent of decrease in density of population per mile of railroad, 1920 versus 1880, as shown at the foot of the last column would be 39.7 per cent instead of 37.4 per cent. The omission of Nebraska from the last group on page 2 would raise the average per cent of increase in

population for this group, 1920 versus 1900, from 37.3 to 38.8; the average per cent of increase in railroad mileage, 1920 versus 1900, from 43.4 to 49.3 with the result that the average per cent of decrease in density of population per mile of railroad, 1920 as compared with 1900 would be 7.0 instead of 4.3 as shown at the foot of the last column (Tr. 5016-5017).

(The statement described by the witness was thereupon received as Exhibit A-130.)

[fol. 761] Exhibit No. A-131 consisting of five pages contains agricultural and live stock statistics by states and groups of states for the average of the five years 1919 to 1923 inclusive, also 1924 and 1925. The information was secured from the Year Books, Monthly Supplements and Bulletins of United States Department of Agriculture, the revised figures being used whenever available. Page one, two and three show the acreage and production of corn, oats and wheat respectively in the same five Western Trunk Line states and four Southwestern states with Kansas added which have been referred to in previous exhibits. These three grains were selected because they are common to and produces in considerable quantities in both groups of states and consequently afford a basis of comparison between the two groups as to productivity and tonnage (Tr. 5017).

Confining our attention to the totals or averages for the respective groups it will be noted that for each period the average production per acre in bushels of each grain was not only greater but, with the exception of wheat, considerably greater in the Western Trunk Line than in the Southwestern group. The total number of acres harvested, total production in tons (using the standard weight per bushel of 56 pounds for corn, 32 pounds for oats and 60 pounds for wheat) and the total average production per acre in pounds of corn, oats and wheat in each of the two groups of states for the respective periods were: 1919 to 1923 inclusive, Western Trunk Line group 59,801,800 acres harvested which produced 46,676,143 tons, the total average production per acre being 1,561 pounds. Southwestern group 37,989,400 acres harvested which produced 18,477,887 tons, the total

average production per acre being 972 pounds. 1924, Western Trunk Line group, 58,408,000 acres harvested which produced 41,653,736 tons, the total average production per acre being 1,426 pounds.

[fol. 762] Southwestern group 35,261,000 acres harvested which produced 17,467,316 tons, the total average production per acre being 991 pounds. 1925, Western Trunk Line group, 60,448,000 acres harvested which produced 52,382,590 tons, the total average production per acre being 1,733 pounds. Southwestern group, 32,699,000 acres harvested which produced 10,263,744 tons, the total average production per acre being 628 pounds (Tr. 5018-5019).

An analysis of these figures shows that for the five year average period the Southwestern states produced but 39.6 per cent of the Western Trunk Lines states tonnage on 63.5 per cent of the Western Trunk Lines states acreage; that in 1924 the Southwestern states produced but 41.9 per cent of the Western Trunk Line states tonnage on 60.4 per cent of the Western Trunk Line states acreage; and that in 1925 the Southwestern states produced but 19.6 per cent of the Western Trunk Line states tonnage on 54.1 per cent of the Western Trunk Line states acreage. The best relative showing made by the Southwestern states was in 1924 but even in this year the total average production per acre in the Southwestern states was 435 pounds less than that in the Western Trunk Line states while in 1925 the total average production per acre in the Southwestern states was 1,105 pounds less than in the Western Trunk Line states. That shows the relative ability of the two territories to produce traffic on the same amount of land devoted to the same crop (Tr. 5019).

Page four shows the acres harvested, production of lint cotton and of cottonseed in the four southwestern states of Arkansas, Oklahoma, Louisiana and Texas. The production of cottonseed in 1925 was not available at the time this [fol. 763] exhibit was prepared. Since cotton is not produced in any appreciable quantity in the Western Trunk Line states, no comparisons can be drawn. The significance of this page of the exhibit lies in the fact that while it is an important crop in the southwestern states, it is not, because of the low average yield in pounds per acre, the high cost

of handling, and the light loading per car, as desirable traffic for the carriers as grain. It is true the rates are high, but they are upon an any quantity basis and the movement from the country station to the compress is always a less than carload one. Moreover, the apparent rate is not always the net rate to the carriers since the cost of compression amounting to 18 cents per 100 pounds is ordinarily included therein. The carriers are required to load the cotton at the country station and either the section men are used or the shippers are paid for this service. The fire hazard, both on the platform at the country station and at the compress, is considerable. The average loading of cotton in carloads on the Santa Fe System Lines is approximately 22,000 pounds per car (Tr. 5020).

Based upon value alone, cotton ranks very high among the products of agriculture. It accounts for a very considerable part of the aggregate value of farm crops in Texas as shown on page one of Mr. Parsons' Exhibit A-40. However, the aggregate value of farm crops in any given state does not afford, considered by itself, any basis upon which to compute the tonnage available for transportation, neither does it afford a basis upon which the relative prosperity of the farmers in one state or section as compared with another state or section can be predicated. It is the net return to the farmer which counts, and the gross value alone gives no indication of this. Page five is devoted to live stock statistics by states and groups of states for the same periods as are covered by preceding pages of the exhibit. [fol. 764] The columns headed "Total number of head of live stock" and "Average number of head per square mile" are especially interesting. It will be noted that no matter whether you take the five year average period or 1924 or 1925 the total number of head of live stock in the four Western Trunk Line states was nearly double that in the four Southwestern states with Kansas added and that the average number of head per square mile in the Western Trunk Line states is nearly three times that in the five states south and west of the Missouri River. Using the five year average as a basis the only kind of livestock in which the Southwestern states predominated was cattle other than milk cows, but if the total number of head were expressed in

average number of head per square mile, the relationship would be Western Trunk group 29 head, Southwestern group 19.5 head. In short, this exhibit shows that based either upon agricultural products common to both territories or upon live stock there has not been, is not now and in my opinion never will be as much potential tonnage of this character in the Southwest as exists concurrently in the Western Trunk Line states east of the Missouri River (Tr. 5020-5021-5022).

(The statement described by the witness was thereupon received in evidence as Exhibit A-131.)

[fol. 765] I have reworked Exhibit A-129 as a result of suggestions made by the Examiner and Attorney Towner. We would like to introduce that exhibit as Exhibit No. A-129½ (Tr. 5023).

(The statement referred to by the witness was received in evidence as Exhibit A-129½, which said exhibit is in words and figures as follows:)

[fol. 766] EXHIBIT No. A-129½

Witness: Dana

Page No. 1

I. C. C. Docket No. 15234

Statement of Freight Traffic Density by States and Groups of States for Calendar Year 1922

States	Average mileage operated, single track	Number of tons carried one mile	Tons one mile per mile of line
Western Trunk Line States			
Illinois	8,726.62	21,186,976,361	2,427,856
Iowa	10,087.97	9,264,552,986	918,376
Missouri #	3,477.02	5,004,160,594	1,439,210
Total or Average	22,291.61	35,455,689,941	1,590,531
Southwestern States			
Missouri #	4,260.88	3,852,944,237	904,260
Arkansas	3,993.57	3,494,525,623	875,038
Oklahoma	6,338.52	4,411,226,387	695,939
Louisiana	3,678.04	2,564,735,075	697,310
Texas	14,473.12	9,004,934,199	622,183
Total Average	32,744.13	23,328,365,521	712,444

Average density of Western Trunk Line States 223.2% of that of Southwestern States.

#Segregation of lines in Missouri same as shown in witness Parsons' Exhibit A-39.

[fol. 767] EXHIBIT No. A-129½

Witness: Dana

Page No. 2

I. C. C. Docket No. 15234

Statement of Freight Traffic Density by States and Groups of States for Calendar Year 1923

States	Average mileage operated, single track	Number of tons carried one mile	Tons one mile per mile of line
Western Trunk Line States			
Illinois	8,715.51	24,275,927,106	2,785,371
Iowa	10,083.91	10,267,046,394	1,018,161
Missouri #	3,475.00	5,350,838,768	1,539,810
Total or Average	22,274.42	39,893,812,268	1,791,015
Southwestern States			
Missouri #	4,300.91	4,695,320,766	1,091,704
Arkansas	4,295.77	4,494,510,599	1,046,264
Oklahoma	6,272.93	4,938,174,316	787,220
Louisiana	3,557.79	2,906,436,109	816,922
Texas	14,609.94	10,125,271,725	693,040
Total or Average	33,037.34	27,159,713,515	822,091

Average density of Western Trunk Line States 217.9% of that of Southwestern States.

#Segregation of lines in Missouri same as shown in witness Parsons' Exhibit A-39.

[fol. 768] EXHIBIT No. A-129½

Witness: Dana

Page No. 3

I. C. C. Docket No. 15234

Statement of Freight Traffic Density by States and Groups of States for Calendar Year 1924

States	Average mileage operated, single track	Number of tons carried one mile	Tons one mile per mile of line
Western Trunk Line States			
Illinois	8,714.58	22,142,730,040	2,540,883
Iowa	10,088.51	9,813,304,431	972,721
Missouri #	3,475.52	5,371,546,537	1,545,538
Total or Average	22,278.61	37,327,581,008	1,675,489
Southwestern States			
Missouri #	4,269.68	4,886,467,023	1,144,458
Arkansas	4,294.06	4,479,790,911	1,043,253
Oklahoma	6,233.17	5,466,771,016	877,045
Louisiana	3,681.02	3,360,983,798	913,058
Texas	14,538.32	11,806,290,758	812,081
Total or Average	33,016.25	30,000,303,506	908,652

Average density of Western Trunk Line States 184.4% of that of Southwestern States.

#Segregation of lines in Missouri same as shown in witness Parsons' Exhibit A-39.

[fol. 769] EXHIBIT No. A-129½

Witness: Dana

Page No. 4

I. C. C. Docket No. 15234

Recapitulation of Statements of Freight Traffic Density by States and Groups of States for Calendar Years 1922, 1923, and 1924

Years	Average mileage operated, single track	Number of tons carried one mile	Tons one mile per mile of line
Western Trunk Line States			
1922	22,291.61	35,455,689,941	1,590,531
1923	23,274.42	39,893,812,268	1,791,015
1924	22,278.61	37,327,581,008	1,675,489
Total or Average	66,844.64	112,677,083,217	1,685,656
Southwestern States			
1922	32,744.13	23,328,365,521	712,444
1923	33,037.34	27,159,713,515	822,091
1924	33,016.25	30,000,303,506	908,652
Total or Average	98,797.72	80,488,382,542	814,679

Average density of Western Trunk Line States 206.9% of that of Southwestern States.

[fol. 770] This exhibit A-129½ has been prepared in accordance with the suggestion of the Examiner, and also of Mr. Towner, that is to say, we have figured the average tons one mile per mile of line for the Western Trunk Line States of Illinois, Iowa and Missouri north of the Missouri River as segregated in Mr. Parsons' Exhibit A-39 and added to the four Southwestern States the southern part of Missouri as segregated in Mr. Parsons' Exhibit A-39. It will be noted on page 4 of the exhibit, using the three years, that the average density of these three Western Trunk Line States is 206.9 per cent of that of the revised Southwestern States. That means over one hundred per cent greater (Tr. 5023-5024).

Exhibit A-132 consisting of one page contains statistics covering the manufacturing industry, the information being shown by states and groups of states for the census years 1904, 1914 and 1921. The purpose of this exhibit is to afford a comparison of the industrial strength of the Western Trunk Line states with that of the Southwestern states, the division of the joint rates to and from which are involved in this proceeding. Using the total or average figures for each group for the year 1921, that being the latest available at the time the exhibit was prepared, we find 1,258,261 persons engaged in industry in the five Western Trunk Line states or an average of four persons per square mile as compared with 271,714 persons engaged in industry in the four Southwestern States or an average of 63/100 person per square mile. In other words, as of the year 1921 there were, on the square mile basis, 6½ times as many persons engaged in industry in the Western Trunk Line group as in the Southwestern group (5024-5025).

For this same year the total salaries or wages paid in [fol. 771] the Western Trunk Line group amounted to $1,762,246,000.00 as compared with $311,643,000.00 in the Southwestern group and the annual average salary or wage in the former group was $1,400.54 as compared with $1,-146.58 in the latter group. There has been a slight improvement in the relative position of the Southwestern as compared with the Western Trunk Line group since 1904 but the disparity is so great that there is no possibility of there being any marked change in even the relative situation of the respective groups for very many years to come. Based upon the total number of persons engaged in industry in the two groups in 1921 and assuming that the number in the Western Trunk Line group will remain stationary, which is unlikely, and that, in the Southwestern group, the percentage of increase for each 17 year period following 1921 will be the same as 1921 over 1904, which the increase 1921 over 1914 clearly shows will not be the case, over 51 years would elapse before the Southwestern group, had the same number of persons engaged in industry as is shown for the Western Trunk Line group in 1921. Or, based upon the total persons engaged in industry per square mile in the respective groups in 1921 and again assuming

that the total number engaged in the Western Trunk Line states will remain stationary and that, in the Southwestern States, the percentage of increase in persons engaged per square mile for each 17 year period following 1921 will be the same as 1921 over 1904, approximately 68 years would elapse before the Southwestern group had the same average number of persons engaged in industry per square mile as had the Western Trunk Line group in 1921. This analysis clearly shows that there isn't the remotest possibility, within the lifetime of anyone engaged in this proceeding, of the Southwestern states reaching or even approaching the industrial strength of the Western Trunk Line states (Tr. 5025-5026).

(The statement described by the witness was thereupon received in evidence as Exhibit A-132.)

[fol. 772] Exhibit No. A-133 consisting of two pages compares the current basic divisions via Kansas City, applied to the average of the ten through class rates, with the result under a rate pro-rate using, as factors, the average of the ten class rates to and from that gateway. I have used the term "basic divisions" to describe the direct route divisions, these being the divisions which accord the lines north and east of the Missouri River the lowest proportions and therefore afford the best basis of comparison from the standpoint of the Western Trunk Lines. These divisions apply to class and general commodity traffic. They are not applicable upon lumber and a few other specific commodities (Tr. 5026).

The points of origin in Western Trunk Line territory east of the Missouri River were selected solely with the view of making the exhibit representative in every way of the territory and traffic involved. With the exception of Missouri the cities shown all have a population of 10,000 or more and are so situated as to cover practically each divisional group in each Western Trunk Line state. In Missouri I was forced to include some cities of less than 10,000 inhabitants in order to make a representative showing. Page 1 shows the current basic divisions of the average of the ten through class rates from each of the points of origin listed in column No. 1 to Dallas-Fort Worth, Texas and the divisions which would result on the basis of a rate

pro-rate over Kansas City, using the average of the ten class rates to and from that point as factors. Without going into details as to each individual division it will be noted at the foot of columns 4 and 5 that the average of the current basic divisions east and north of Kansas City are per cents, 29.36, and cents per 100 pounds, 43.53; while the average based on a rate pro-rate as shown at the foot of columns 10 and 11 are per cents, 30.5 and cents per 100 pounds, 44.86 (Tr. 5027).

[fol. 773] Page 2 shows similar information as to the divisions of the averages of the joint through ten class rates from the same points of origin to Texas Common Points to which the rates from Kansas City are higher than to Dallas-Fort Worth. Here it will be noted that the average of the current basic divisions for the lines east and north of Kansas City as shown at the foot of the columns 4 and 5 are per cents, 29.36, cents per 100 pounds 43.53 as compared with per cent 28.42 and cents per 100 pounds 41.81 on a rate prorate basis as shown at the foot of columns 10 and 11. In other words, based on these averages page 1 shows that a rate prorate would accord the lines east and north of Kansas City 1.14 per cent or 1.33 cents per 100 pounds more on northeastern Texas traffic than the current basic divisions but on the balance of Texas traffic as shown by page two they would lose on a rate prorate basis .94 per cent or 1.72 cents per 100 pounds (Tr. 5028).

On lumber, however, as will be shown by another witness, they receive considerably more than either one of these per cents would accord them and there are other class and general commodity divisions in effect as to which I shall testify later which accord the lines east and north of Kansas City greater divisions than either the basic divisions or the rate prorate basis (Tr. 5028).

(The statement described by the witness was thereupon received in evidence as Exhibit A-133.)

[fol. 774] Exhibit No. A-134 consisting of two pages compares the current divisions north of Chicago and north and east of Kansas City, as provided for in Item No. 245 of Southwestern Lines Division Sheet No. 40, copy of which is contained in Mr. Behrle's Exhibit A-5, with the local

rates from the same points or origin to Chicago or Kansas City. I think it may be in A-5, 6 or 7 (Tr. 5028-5029).

In this particular item all of the divisions break on Chicago. This item not only provides for a division of 15 per cent to the lines north of Chicago as shown in the caption of column 4, page one, and column 5, page two; but also for the compounding of the proportion north and east of Kansas City when the traffic is routed via and handled by one line to Chicago or Chicago junctions and thence via a different line to lower Missouri River gateways. This provision results in the compounded division of 40½ per cent which is shown in the caption of column 8, page one and column 9, page two.

The points of origin selected are fairly representative of the territory in Illinois and Wisconsin from which the route through Chicago junctions is a natural one and the commodities, the divisions of which are shown on page two, are those which move in considerable volume from the origins listed to destinations in Texas. Since the information available at the time this exhibit was prepared covered but one month's movement there are examples shown upon page two for which no specific shipment at the compounded division of 40½ per cent can be checked. An examination, however, of page 12 of Mr. Balch's Exhibit A-41 and computations based on the allocations of revenue south or west and north or east of Missouri River junction as shown in [fol. 775] the columns headed "Revenue as Divided" will prove conclusively that this compounded division is in actual and frequent use (Tr. 5029-5030).

Column 5, page one, shows the current proportions north of Chicago, expressed in cents per 100 pounds, of the average of the joint through ten class rates from the origins shown to Texas Common points. Column 6 shows the average of the local ten class rates from the same points of origin to Chicago. The average of these two columns are respectively 28.6 and 28.9 cents, which means that the average current division north of Chicago is equal to 98.9 per cent of the average of the local rates. The average current proportion south of Chicago is 121.4 cents as compared with the average of the ten class rates of 142.8 cents per 100 pounds, which means that the average current division

south of Chicago is but 85 per cent of the average of the local rates (Tr. 5030).

Column 9, page one, shows the current proportions north and east of Kansas City when routed via Chicago, the average being 65 cents per 100 pounds. The average of the local ten class rates from the same points of origin to Kansas City, using the higher averages from Freeport, Rockford, Beloit and Madison, is 58.5 cents per 100 pounds as shown at the foot of Column 10. This means the current compounded division of 40½ per cent plus arbitraries, if any, over Chicago or Milwaukee is equal to 111 per cent of the average of the ten local class rates to Kansas City. On the other hand the average current proportion south of Kansas City is 85 cents as compared with an average of 115.35 cents of the local class rates from Kansas City to Northeast Texas, and 127.6 cents to other Texas Common Points. In other words the average current proportion south of Kansas City is but 73.7 per cent of the average of the class rates Kansas City to Northeast Texas, and but 66.6 per cent of the average of the class rates Kan- [fol. 776] sas City to other Texas Common Points. Page two shows the current divisions north of Chicago and the compounded divisions north and east of Kanass City on 37 commodities from 19 points of origin. Column 8 shows that the current divisions north of Chicago exceed the local rates to Chicago in 24 and column 12 shows that the compounded divisions north of Kansas City exceed the local rates to Kansas City in 26 out of the 37 examples listed. On the other hand there is not a single instance in which the proportions south of Chicago or south of Kansas City even equals the local rates from those points (Tr. 5031).

The average of the current proportions north of Chicago, as shown at the foot of column 6 is 24.1 cents as compared with an average of the local rates to Chicago of 21.1 cents as shown at the foot of column 7. In other words the average current proportion north of Chicago is 114.2 per cent of the average local rate point of origin to Chicago. On the other hand, as may be computed from this exhibit, the average of the current commodity proportions south of Chicago is 110.9 cents as compared with an average of the commodity rates from Chicago to Texas Common Points of 131.4 cents. In other words, south of Chicago the aver-

age commodity proportion is but 84.4 per cent of the average commodity rate. The average of the compounded commodity proportions north and east of Kansas City, as shown at the foot of column 10, is 57.3 cents while the average of the local commodity rates from points of origin shown to Kansas City, as shown at the foot of column 11, is but 53.9 cents. In other words, the average of the compounded divisions north and east of Kansas City exceeds the average of the local rates to Kansas City by 3.4 cents per 100 pounds or 6.3 per cent (Tr. 5032).

[fol. 777] On the other hand, as may be computed from this exhibit, the average of the current proportions on these commodities south of Kansas City is 77.6 cents as compared with an average of the commodity rates from Kansas City of 104.7 cents to Northeast Texas and 115.3 cents to other Texas Common points. In other words, south of Kansas City the average commodity porportion is but 74.1 per cent of the average commodity rate to Northeast Texas and but 67.3 per cent of the average commodity rate to other Texas Common Points.

Summarizing the situation via both Chicago and Kansas City this exhibit and my testimony shows that, based on averages, the lines north and east of these Junctions receive in all instances proportions which are practically equal to or actually in excess of their local rates while the lines south and west receive proportions varying from 66.6 to 65 per cent of their local rates. It is true so far as the interchange via the junctions shown in this exhibit is concerned that item 35 of Southwestern Line's Division Sheet No. 40 limits lines either side of Chicago or Kansas City to their local or proportional rates if lower, as maximum allowances. But this division sheet has not been adopted by all of the lines north of Chicago or north and east of Kansas City and in actual practice, as can be demonstrated from Mr. Balch's Exhibit A-41, the lines north and east of the Missouri River are receiving in some instances more than their local rate (Tr. 5032-5033).

This would apply on all commodities as they moved. Mr. Balch's exhibit A-41 covered but the month of June, 1924. The provision of the division sheet which limited the proportions to the local rates; would be applicable to the movement of all the commodities, but the difficulty is that the

lines south and west of the Missouri River have not the local tariff of the lines north and east of the Missouri [fol. 778] River, or if they have in the Accounting Department, like most Accounting Departments which are overburdened with work, they don't check the division against the local rate, and the result is that in actual practice you will find by an examination of Mr. Balch's exhibit A-41 the lines north and east of Kansas City have in many instances received more in the allocation of the revenue than their local rate would accord them. Of course that means that the auditors have failed to take cognizance of the provision in the Division Sheet which limits the line, either side, to the local rate as maximum. As a practical matter it is difficult to maintain a current file of the local tariffs of these Western Trunk Lines and this provision of local rates as maxima, is one of the things which the Accounting Departments are continuously raising objection to; they say give us these percents and let the percent stand and don't make us go somewhere else, perhaps in a half dozen different tariffs in some other place and look for something which may subsequently be the proper and correct division. If a line which has adopted this division sheet should take revenue north of Kansas City in excess of its local rate that would be an auditing error. Of course, the lines south and west have no recourse against the lines which have failed to adopt Southwestern Lines Division Sheet 40 and where in that instance the lines north and east of Kansas City have taken more than their local rate based upon the percentage division as provided for in the division sheet, that excess in division over the local rate would stand in the final settlement.

I understand that there is one line and maybe more that would not accept the division sheet which limits the division to the local rate. I don't care to say what particular line or lines (Tr. 5034-5035-5036).

(The statement described by the witness was thereupon received in evidence as Exhibit A-134.)

[fol. 779] Exhibit A-135, consisting of two pages is similar in every way to Exhibit A-134, except that here the comparison of the current divisions with the local rates is made via Des Moines, Iowa (Tr. 5036).

The basic division shown in the caption of column 4, page one, and column 5, page 2, is carried in individual issues of the C. R. I. & P. and C. & N. W. Railways. I do not recall whether or no Mr. Behrle filed a copy of this divisional issue but it is a fact that the arrangement is in effect on southbound and possibly on northbound traffic. It applies between these two lines only when the C. R. I. & P. Railway receives a haul west of the Missouri River to a Texas destination or junction. The division north and east of Des Moines is exactly the same as obtains north and east of Kansas City via direct routes and its effect when the Chicago Great Western secures some of the traffic from the North Western at Des Moines, as is sometimes the case, is the compounding of divisions via that junction, provided the C. G. W. can persuade its connections south and west of Kansas City to join it is absorbing the C. & N. W. proportion. Column 7, page one, shows that current division north and east of Des Moines equals or exceeds the average of the local rates in all instances. The footings of columns 5 and 6 show respectively that the average of the current proportions is 50 cents as compared with an average of the local class rates, points of origin listed in column one to Des Moines of, using the higher average, 43.7 cents. In other words the average of the current proportions north and east of Des Moines, Iowa, out of the average of the joint through class rates equals 114.4 per cent of the average of the local class rates to Des Moines. The proportion of the lines south of Des Moines, as can be computed from [fol. 780] page one of the exhibit is in each instance 100 cents. The average of the ten class rates from Des Moines to Texas Common Points is 137.8 cents which means that the average proportion south of Des Moines is but 72.6 per cent of the average of the ten class rates south of Des Moines (Tr. 5037-5038).

Page 2 of the exhibit affords a comparison of the current divisions north and east of Des Moines on 37 representative commodities from 19 characteristic points of origin in Chicago, Milwaukee or Fox River territories with the local rates on the same commodities from the same points of origin to Des Moines. Referring to column 8, page 2, it will be noted the current division north and east of Des

Moines exceeds the local rate to that point in 22 out of the 37 examples shown. The proportions south of Des Moines can be computed from the figures shown on page 2. The corresponding local rates from Des Moines to Texas Common Points are not shown. They have been checked however by my office and it is a fact that only in no instance does the proportion south of Des Moines equal the local rate from that point to Texas Common Points but also that in each and every instance where the current proportion north and east of Des Moines is less than the local rate to Des Moines the proportion south of Des Moines is likewise less than the local rate from Des Moines and the ratio of the proportion to the local rate south is always lower than the ratio of the proportion north to the local rate north (Tr. 5038-5039).

The footings of columns 6 and 7, page 2, show respectively that the average of the current proportions is 43.6 cents as compared with an average of the local rates, origins to Des Moines of 41 cents. In other words the average of the current commodity proportions north and east of Des Moines equals 106.3 per cent of the average of the local commodity rates to Des Moines. On the other hand the [fol. 781] average of the current proportions south of Des Moines is 91.3 cents as compared with the average of the local commodity rates from Des Moines to Texas Common Points of 125.3 cents. In other words the average of the current proportions south of Des Moines is but 72.8 per cent of the average of local commodity rates south of Des Moines. Items 220, 240 and 320 of Southwestern Lines' Division Sheet No. 40 covering Chicago, Milwaukee and Fox River territory traffic respectively provide for exactly the same allowances to the lines east of Omaha and Council Bluffs as accrues to the lines north and east of Kansas City via the direct lines routes and Note 1 in connection with each of these items provides for further allowances to the lines handling the traffic between Omaha or Council Bluffs and Kansas City or other Southwest Missouri River crossings. The result is a compounded division North and east of Kansas City amounting to approximately 40½ per cent of the joint through rate to destination. There's also a division north and east of Marshalltown, affording the line 22 per cent, this basis being provided for in Item 220,

240 and 320 of Southwestern Lines Division Sheet No. 40 covering Chicago, Milwaukee and Fox River territory traffic respectively. South of Marshalltown and east of Missouri river crossings the lines are accorded certain arbitraries which are provided for in Note 1 of the same divisional issue. This results in a somewhat higher level of division north and east of Kansas City than the basic division of 30 per cent but will not equal the 40½ per cent compounded division which I have heretofore mentioned. All the lines do not observe the same division. That is limited as the caption shows to the route via Marshalltown Iowa, care C. G. W. via St. Joseph or Kansas City, Missouri.

[fol. 782] I think the division sheet is in the record in Mr. Behrle's exhibit A-5 (Tr. 5039-5040-5041).

(The statement described by the witness was thereupon received in evidence as Exhibit A-135.)

[fol. 783] Exhibit A-136 consisting of three pages is a draft upon each page of which is shown the equation of the average of the ten class rates south and west of Kansas City to the average of the ten class rates north and east of Kansas City which in each instance are equated on a basis of 100 per cent. Page one shows you will note at the upper right hand corner Chicago Group Points. Those are the points in Chicago and Northern Illinois taking Chicago rates and the Chicago basis of division and average distance of 428 miles which I have used is that shown on page 4 of this part of Exhibit A-77. The average distance of 514 miles to the average point or to an average point in Northeast Texas is that shown upon page 16 of Mr. Balch's Exhibit A-77 and the average distance of 713 miles to the average point in Texas Common Point Territory other than Northeast Texas is that shown upon page 18 of Mr. Balch's Exhibit A-77. It will be noted referring to page one that on an equated basis the average of the ten class rates to the Northeast Texas group is 165.7 per cent of the average of the ten class rates from Chicago to Kansas City, and that to the balance of Texas Common Point Territory the average of the ten class rates south and west of Kansas City equated to 428 miles is 132.2 per cent (Tr. 5041-5042).

On page 2 the average distance of 495 miles for the Milwaukee group points is that shown on page 5 of Mr. Balch's Exhibit A-77, these points also taking a Chicago basis of rates and the Chicago divisions through the Kansas City gateway. The distance of course for the average point in Northeast Texas and the average point in Texas Common Point Territory other than Northeast Texas remain constant throughout the Exhibit. Here it will be noted that the average of the ten class rates south and east of Kansas City to the average point in Northeast Texas is 191.7 per [fol. 784] cent on an equated basis, and that the average of the ten class rates to the average point in Texas Commen Point Territory other than Northeast Texas is 152.87 per cent on an equated basis.

Page 3 covers the so-called Peoria Group Points which also take the Chicago basis of rates and divisions, the average distance of 340 miles being that shown on page 5 of Mr. Balch's Exhibit A-77. Here it will be noted that the average of the ten class rates south and west of Kansas City to the average point in Northeast Texas is 149.2 per cent on an equated basis and average of the ten class rates to the average point in Texas Common Point Territory other than Northeast Texas 119 per cent on an equated basis. These three groups have been selected because the major portion of the traffic involved at this proceeding moves either from or to or through this particular territory. Unquestionably the larger portion of the traffic moves from or to the Chicago Group, and I think it may also be safely said that the second largest movement is from the Milwaukee Group and the third or the lowest from the Peoria Group. If you average the percentages shown on the three pages of this exhibit to the average point in Northeast Texas, you arrive at a percentage on an equated basis of 168.9 per cent for the lines for the rate south and west of Kansas City to the 100 per cent basis north and east of Kansas City; and if you average the percentages from those same three groups north and east of Kansas City to Texas Common Point Territory other than Northeast Texas, you arrive at an average of 134.69 per cent on the equated basis for the lines south and west of Kansas City. Mr. Behrle's Exhibit A-60 upon Page 1 showed the movement via Kansas City from all Western Trunk Line territory and to Northeast

Texas the aggregate movement was 22,881.7 tons or 56.8 [fol. 785] per cent and to the remainder of Texas Common Point Territory 17,414.8 tons or 43.2 per cent of the total movement for the month of June, 1924. Using this as a basis for arriving at a grand average equated percentage of the proportion south and west of Kansas City, using 56.8 per cent of 168.9 per cent or 43.2 per cent of 134.69 per cent, you arrive at a grand average on an equated basis of 154.1 per cent for the lines south and west of Kansas City. This is a weighted equated average. I should say that it is a way of saying that the rates south of Kansas City are 54 per cent higher than those north of Kansas City. The revenue figures per ton mile are shown on the next exhibit (Tr. 5042-5043-5044).

Now by using the figures shown in Mr. Bone's Exhibit No. A-120 and A-122 in which the traffic to and from Illinois is segregated and including the short line lumber traffic as shown in A-122, or rather including the revenue for those short lines, but adding nothing to the ton one mile, because they are not shown in the exhibit, you will arrive at a ratio Southwestern Lines to Western Trunk Lines on this Illinois traffic of 153 per cent as compared with average—weighted average on an equated basis of 154.1 per cent (Tr. 5044-5045).

The statement described by the witness was thereupon received as Exhibit A-136.)

[fol. 786] Exhibit No. A-137 consisting of one page is a recapitulation of total figures covering Louisiana and Texas traffic as shown on pages 1, 2 and 3 of Mr. Behrle's Exhibit A-60 and covers the total carload traffic which moved between points in Louisiana and Texas and points on the C. & A. Railroad, C. & E. I. Railway, C. G. W. Railroad, C., M. & St. P. Railway, C. & N. W. Railway, C., St. P. M. & O. Railway, I. C. Railroad, M. & St. L. Railway, and Wabash Railway in Illinois, Missouri, Iowa, Wisconsin and Minnesota via Kansas City, East St. Louis, Cairo, Gale and Thebes during the month of June, 1924. The purpose of this exhibit is to compare the revenue and service based on current divisions of these lines east and north with that of the lines south and west of the gateways shown, on the aggregate of the traffic to and from these two southwestern states. This, reduced to a ratio of ten mile revenue as ex-

pressed in column 11, shows that the per ton per mile revenue of the Southwestern Lines on the aggregate traffic handled during the month of June, 1924, was but 129.8 per cent of that of the Western Trunk Lines. In other words, the revenue of the Southwestern Lines in the aggregate is no more than would result under a constructive mileage prorate of 1.3 miles south to one mile north of the gateways. Considering the traffic in its entirety I believe we are entitled to more than that, certainly not less. I do not think the addition of L. C. L. traffic would materially change the figure. This is via all gateways. There is no oil shown from Louisiana through the Kansas City gateway. This shows all of Louisiana west of the Mississippi River and all of Texas common point territory. This exhibit means that the revenue was actually apportioned between the lines north and east of Kansas City and the lines south and west of Kansas City upon the basis of a constructive distance to the southwestern lines of one third of a mile in addition to each actual mile. We have shown, however, at least I [fol. 787] hope we have, that we are entitled to something over one and one-half miles south and west of Kansas City. Exhibit A-137 only includes traffic which was shown in Mr. Mehrle's exhibit A-60. I could not say whether Mr. Behrle included all of the lines which were respondent carriers (Tr. 5045-5046-5047).

The showing on this exhibit takes into account the difference in length of haul. I will refer to the various exhibits which have been put in. You will find that in the aggregate the average haul of the lines north and east of the Missouri River is not greatly different from the average haul on the lines south and west, or at least that the average haul of the lines north and east is sufficiently long to have passed in my opinion the point where the average cost of the haul becomes constant (Tr. 5047-5048).

The following is copied verbatim from the transcript of the testimony:

By Mr. Towner:

Q. In other words, following that out, if you will permit me, on this Exhibit A-137, Mr. Dana, your ton miles south of your gateways are approximately twice your ton miles north; it is your idea then that that difference in haul should

not have any effect upon the ton mile comparison that you have made?

Exam. Disque: In this particular Exhibit which covers Louisiana and Texas, the long haul point?

Q. (Continuing:) Now there you have two to one approximately; is it your idea that that should not be taken into consideration?

A. Well, I think that I would have to go through these exhibits themselves and find out just what the average haul was north and east and south and west of Kansas City on this traffic. My thought was this, that after you reach an [fol. 788] average haul of say three hundred miles, you would have then reached a point where the cost of the transportation becomes practically constant, no matter whether you haul it a thousand miles more or not.

Some people who make distance scales, work on the theory that if the haul is longer, the ton mile earnings should be less. If you carried that to its ultimate conclusion you would reach the vanishing point, where after you had gotten out a certain distance, there would never be anything added for the constantly increasing mileage. Speaking of the relationship in case of a haul 500 miles to a thousand miles, I would think that the haul of 500 miles would and probably should earn more per mile than the thousand mile haul. That should have some consideration in considering my exhibit A-137 (Tr. 5048-5049).

(The statement described by the witness was thereupon received in evidence as Exhibit A-137.)

[fol. 789] Now I have just a few comments to make with respect to page 5 of Mr. Parsons' Exhibit A-40. I don't know what significance in this proceeding this page has, in fact I think that Mr. Parsons explained that some of those exhibits were prepared for use in some other phase of I. C. C. Docket 15234, and possibly the lines east of the Missouri River and north of St. Louis have no intention of using this but I did not like to pass it without pointing out a few facts in connection with it, a few additional facts, because there are facts too, of course, on that page. The first block on page 5 is devoted to the production of crude petroleum in thousands of barrels of 42 gallons each. Now admittedly there is considerably more production of petro-

leum in the Southwestern States than there is in the Western Trunk Line States, in fact I know of no production in the Western Trunk Line States except in the State of Illinois, at least in considerable volume, but of course it is also a well known fact that crude petroleum does not move very extensively by rail. Most of the movement is by pipe line, in fact the Santa Fe Railway has all the way from the Mid-Continent field to Chicago and Whiting, Indiana, and the territory in the Chicago switching district, two pipe lines, one a subsidiary of the Standard Oil Company and the other of the Sinclair Refining Company, and of course all the oil that is used by those two concerns is handled through those two pipe lines. I meant that the Santa Fe had a pipe line parallel to its line. We don't own the pipe line (Tr. 5049-5050).

Then the next block covers the production of bituminous coal in thousands of net tons of 2,000 pounds. The only Southwestern States shown are Arkansas and Oklahoma. And I have examined the statistical abstract of the United [fol. 790] States for 1923, from which this information was taken and I find that the production of coal in Iowa, which is not regarded as any particularly large producing coal state, exceeded the production of Arkansas and Oklahoma for every one—and that is the combined production that I am speaking of in Arkansas and Oklahoma—for every one of the periods shown in page 5 of Mr. Parsons' Exhibit A-40 except 1921. In that year the Iowa production was 4,531,000 tons and the combined production of Arkansas and Oklahoma 4,931,000 tons. In each and every other period the Iowa production exceeded the combined production in Arkansas and Oklahoma. In Illinois, using the year 1923 as a basis, the production was 84,000,000 tons and the combined production Arkansas and Oklahoma 4,950,000 tons. In other words the Illinois bituminous coal production in that year was practically seventeen times as great as the combined production in Arkansas and Oklahoma. Texas produces some lignite, but not a great deal. It is an inferior quality of coal and is not extensively used (Tr. 5050-5051).

Now taking the total production of crude petroleum and assuming that every bit of it moved by rail, and of course that is far from being the truth, assuming 42 gallons to each barrel, and then 7¼ pounds per gallon, which is the esti-

mated weight for crude petroleum in Western territory, you would arrive at a tonnage of approximately 3,000,000 tons of crude petroleum as compared with 34,000,000 tons of bituminous coal produced in Illinois for the calendar year 1923. There is also shown a block of figures which deal with the production of portland cement in thousands of barrels. I found by examining the same source of information that Mr. Balch used, that with the exception of 1910 the Illinois production exceeded that of either Kansas or Texas, which are the two states shown on the exhibit, and [fol. 791] that since 1910 the production in Iowa is in excess of the production in Texas. The production in Missouri, most of which not all, is in the Western Trunk Line territory, is also in excess of the production in either Kansas or Texas for every period shown upon page 5 of Mr. Balch's Exhibit A-40 with the exception of 1900 and 1910. I can't say whether or not there is any production of cement at all in either Louisiana or Arkansas (Tr. 5051-5052).

The following is quoted verbatim from the transcript of the record:

By Mr. Outlaw:

Q. Mr. Dana, referring again to this average haul, concerning which you testified both north and south of the river, of the Missouri River, I believe you stated that after the traffic had moved in any territory three hundred miles or more the cost of handling becomes constant and the relative cost both sides of the river, might be considered somewhat similar?

A. I think that is true.

I think transportation conditions are a very important factor and should be given equal if not more weight than the length of the hauls in the two territories. I mean, of course, traffic density and everything that goes with that. I think they are of more importance than the question of any variation in length of haul one side of this territory with the other. In the case of the rate from Chicago to Little Rock, and from Chicago to Shreveport or Chicago to Dallas, or Chicago to San Antonio or Brownsville, I would rather expect to find the average ton mile earnings less than on the shorter hauls. That was taken into considera-

tion as I see it in my Exhibit A-136 which equated the average of the ten class rates west and south of Kansas City to the rates north and east.

[fol. 792] Now those rates were equated of course on the basis of the level of the ton mile earnings so that I have given no weight in that exhibit to the shorter hauls if any consideration should be given to them. I think the ton mile earnings probably are greater for the Little Rock haul than they would be for the Brownsville haul, although I have made no study of it. That would be what I would naturally expect to find. I think that would be all right assuming that the transportation conditions are the same and the density of traffic was the same. It is true that the rate comparisons in Exhibit A-136 will be rates through the two territories, that is, only rates to and from the gateways.

I think we are going to have some testimony with reference to the situation as to all the rates in Western Trunk Line territory and all the rates within the Southwestern Territory (Tr. 5053-4-5).

Of course I might add this to that Exhibit A-136: I only went as far north as the Milwaukee Group. From a large portion of the producing territory in the Fox River, the average of the ten class rates to the Missouri River is exactly the same as the average of the ten class rates from the Milwaukee group. That is you go as far north as Oshkosh or Marinette and you will find that those points take the Chicago basis of rates to the Missouri River (Tr. 5055).

Cross-examination:

The statement which Mr. Bone introduced as Exhibit A-122 did not refer solely to tap lines as I recall it. It referred to short lines. Now of course, there are included among those short lines other than those which take tap line divisions. At least that is my understanding. Just what those lines are, I can not say. I think Mr. Sickel or some subsequent witness can give you a list of the lines which are [fol. 793] used as short lines. If they were not all tap lines, it is probable that the divisions or allowances were not in all cases fixed by the Commission (Tr. 5056-5057).

Referring to my Exhibit A-126. As the divisions are made, there is no connection between the arbitraries referred to and the divisions of the through rates, but it has

been the contention of the Western Trunk Lines that if the lines in official classification territory were to base their rates in certain instances over some base point like Pittsburg from Johnstown, Pennsylvania, that the lines east of Chicago or east of the Mississippi River should be satisfied with a division which gave them no more in addition to the Pittsburg revenue than the arbitrary over Pittsburg. Now they don't do that, they try to take Baltimore revenue for instance. I think that the divisions north of St. Louis to the lines shown on Exhibit A-126 should exceed the arbitraries used in the construction of the through rates. The purpose of the exhibit of course, was to show that the lines north without any increase in the arbitrary had participated in the increase of the local rates south of St. Louis. The arbitrary is in addition to the local rate to St. Louis, in order to produce a through rate which is substantially less than the combination of the local rates to and from St. Louis. Of course the arbitrary is necessarily of some weight in determining the through rate. I think it has some value in determining the divisions of the through rate, but I would not say and I am not trying to say that all they are entitled to is their arbitrary (Tr. 5057-5058).

I estimated that the total revenue secured by the Western Trunk Lines out of the settlements that have already been made in Docket 15234 would be three million one hundred thousand dollars. My Exhibit A-127 accounts for about two million one hundred thousand dollars. The north coast [fol. 794] lumber handled by the Union Pacific through the Missouri River gateway was excluded. I think my testimony was to the effect that I thought the less than carload traffic, that is to say the increase to the Western Trunk Lines on less than carload traffic, which is not shown in the exhibit, would offset the Western Trunk Line's loss on the Union Pacific north coast lumber, which movement is not as heavy or anywhere near as heavy through Omaha as through the Minnesota transfer. I did not quite offset the increase in the merchandise percents through the twin cities by the decrease on the north coast lumber. In all the conferences which we had in an endeavor to reach a settlement prior to any hearing, two of the traffic executives of the north coast lines stated that on the average the revenues which accrued to the lines south and west or east as the

case may be of the transfer approximated 16¼ per cent including north coast lumber and that they were willing to go along with an agreement to settle on the basis of 16½ per cent because it only represented a loss to them as they figured it at least of approximately one quarter of one per cent on the aggregate traffic through the twin cities from the north coast. I figured roughly about one million dollar increase on the trans-Missouri settlement. This included the Oklahoma settlement so far as it was made. Of course I have no knowledge as to the Northwestern, nor the Burlington, because I had no figures for them. Perhaps I can best give an idea of the ratio of the pick-up to the lines east as compared with the loss to the lines west by using the Santa Fe, which I am not unwilling to do, although I promised all other lines I would not attempt to say how much their particular loss was. The settlement of course or rather the [fol. 795] agreement with respect to trans-Missouri divisions was not reached until after the settlement for the month of July, 1925, had been made. Our Auditor of Freight Receipts after he had recast all the settlements of the July, 1925, prorate, wrote and told me that the loss to the Santa Fe for that one month on that traffic, and that of course excluded any pick-up that the Katy or the Frisco might have gotten because they were not in the settlement, was approximately twenty thousand dollars. Now of course twelve times twenty thousand dollars would be two hundred and forty thousand dollars, but after a study which I made of the volume of the traffic in June as compared with the other months of the year, I found that June was a little heavier month than the other months so that I arrived at a total loss, grand total loss to the Santa Fe west of Missouri River, of $225,000.00 based on the month of July, 1925. Other studies which I made lead me to believe that we might expect to get a pick-up as an east of the Missouri River line ourselves of about possibly forty thousand dollars, although that is simply guess-work. That is per year. That is to say our net loss if you were to use the Santa Fe as both an east and west of the Missouri River line, would be not $220,000.00 but $180,000.00. Now of course when you come to the Union Pacific, which is by far the largest loser in this game, why they get no pick-up at all. Everything is a loss to them. The Rock Island would have some pick-up

and the Missouri Pacific some pick-up. I didn't have the Burlington nor the Northwestern figures (Tr. 5059-5060-5061-5062).

In Exhibit A-128, the authority for the mileage is shown at the foot of page one. I used the miles of single track operated as shown in this statement No. 4, page 12 of the 34th annual report and so forth for the year 1920, published by the Interstate Commerce Commission. That says single track operated. I suppose that there is some lead track in that probably. I think the mileage shown in Exhibit [fol. 796] A-129 differs from the mileage shown in Exhibit A-128 because they were taken from different sources. Those on Exhibit A-129 were taken from the statement prepared by L. E. Wetling, the statistician on the Western Lines. This does not include all of the Illinois Lines or for that matter any other states as I understand it; it includes the Class 1 Railroads in each state and the Class 1 Railroads in the Western District and the tonnage. The Class 1 roads in Illinois, the Eastern Lines, are not included either as to mileage or tonnage. If it were possible to have made the segregation of the portion in Missouri that is Southwestern state for the purpose of those figures, I would have been very glad to do it, because everybody knows that Missouri is more prosperous, has a greater density of population and a greater production in the Western Trunk Line, as defined for this case, than it has in the Southwestern Territory. I mean that part north of the Missouri River (Tr. 5063-5064).

Exhibit A-133 does not show that the divisions of the revenue or traffic shown is approximately on a rate prorate basis. The divisions of the revenue are not on this basis because on lumber, which constitutes a very large volume of the traffic, the lines north and east of Kansas City get a great deal greater percentage proportion of the joint through rate than thirty per cent. This does show what would result from an average of the ten class rates prorate; on an average rate prorate using the average ten classes. I think the rate prorate basis is one of the most important factors which should be used in arriving at the division of joint through rates. It is true that the relationship between the first class and the lettered classes is not the same in the Western Trunk Line as in Southwestern Territory. That is the reason I used the average of the

[fol. 797] ten classes rather than any one class. I would not say necessarily that any change in the relationship of the class basis would in my opinion be a powerful argument in favor of the readjustment of the divisions. That would, of course, have some effect and should be given some weight. I do not know whether at the present time there is a proposal before the Commission to substantially increase class rates in Western Trunk Line territory. There is such a proposal, that is true. If that increase comes about in Western Trunk Line territory, I think that then the rates south and west of Kansas City should also be increased. In other words, based upon density of population and the density of traffic and every other consideration, I think the lines south and west of Kansas City would also be entitled to an increase. I can't say as to whether there is a tentative report now before the Commission to decrease the Southwestern rates. I don't know. It does not necessarily follow that if there be an increase either side of the gateway that there should be a change in the division if the joint through rates themselves have not been changed (Tr. 5065-5066-5067).

Attorney Towner thereupon asked the witness whether or not if there should be an increase in the class scale in Western Trunk Line territory and a decrease in the class scale in the Southwest, he was of the opinion that those things should be given consideration in establishing a readjustment of the divisions in this case. After a discussion of the propriety of this question, Attorney Outlaw said that what would be involved would be an increase in the class rates in Western Trunk Line territory and a readjustment in class rates in Southwestern Territory, which would in effect become commodity rates and such a comparison would be a comparison of wholly unlike things.

[fol. 798] The examiner thereupon suggested that Attorney Towner answer the witness' exhibit by putting in an exhibit of his own using the class rates north and south of the gateways on the first six classes and using the commodity rates north and south of the gateways, or using the Western Trunk Line class rates north of the gateways and the commodity rates south of the gateways. Attorney Towner said that he could do so (Tr. 5068-5069).

Exam. Disque: Or using the Western Trunk Line class rates north of the gateways and the commodity rates south of the gateways.

Mr. Larimore: Do you think that would determine anything?

Exam. Disque: It would determine as much as this.

The Witness: Well, I think this, that for the purposes of this proceeding you have got to stop with the rates as they exist today. I don't believe that you can project this hearing into the future, and to assume that at some indefinite time something else will happen and then predicate any decision upon that——

Exam. Disque (interrupting): That was not my question.

Mr. Towner: I am inclined to agree with you on that, Mr. Examiner, except that these class rate hearings will be going on concurrently with this case; that's the reason.

Exam. Disque: My proposition was to use rates that were moving the traffic rather than the paper rates on the lower classes (Tr. 5070).

It would be rather difficult to say whether or not our class rates move a very small portion of this traffic in dispute here. While I was running through these exhibits in preparation of my testimony, I did find quite a bit of the traffic that actually moved on class rates from points [fol. 799] of origin to points of destination in Texas. I didn't figure the proportion, but I have here a list of commodities moving in carloads at class rates to Beaumont, Dallas, Fort Worth, Houston and Waco during May and October, 1924. I find among that list of commodities, automobiles, boilers, heaters, butter, cheese, clay targets, engines and machinery (not otherwise indexed by name), oleomargerine, paper felt carpet, wall paper, pianos, shoes (not otherwise indexed by name), stoves and ranges, rubber tires and tool joints. Now in all fairness it ought to be said that on some of these commodities there are commodity rates also and sometimes they move at a commodity rate and sometimes they move at a class rate and in some instances the commodity rate is the class rate. I could not say definitely as to whether the class rates are used a little more freely in Western Trunk Line Territory. I would say they were, probably (Tr. 5070-5071).

I think the divisions shown on Exhibit A-134 of 40½ per cent north of Kansas City which includes 15 per cent north of Chicago on traffic from Milwaukee territory apply southbound only. They apply from Milwaukee and from all the Fox River territory which bases over Milwaukee. For example, if the Milwaukee Railroad picked up some of this traffic and hauled it to Kansas City, it would only get the 30 per cent of the haul. The fifteen per cent arbitrary only applies on the southbound traffic that moves through Chicago and at Chicago is delivered to a line other than the one which hauled it to the junction. In going over the history of the case, the very first record I could find of any division to the lines north of Chicago on Milwaukee traffic was made by the lines handling the traffic through the New Orleans gateway. That is my recollection. It was not at that time fifteen per cent, but it was some division which they did allow. It was a carriers' competition proposition. I think it should be changed. We are now deal-
[fols. 800 & 800½] ing with the question where we are trying to fix divisions upon adjustable and reasonable basis and I hope we are trying to eliminate carrier competition. I think that when it comes to the question of divisions that we ought to have divisions so fixed that the traffic might move freely via any of the lines which are parties to the joint through rates and have through routes. Those arbitraries of 15 per cent north of the Chicago or the Milwaukee rate accrue to the lines north. That accounts for the percentages which are shown for instance in column 4 or in column 8 of page 1 of Exhibit A-134 where they are in excess in the first instance of fifteen per cent or in the second of forty and a half. The way we determined this was we found the proportion first in cents per hundred pounds and then we found what percentage that proportion in cents per hundred pounds was of the joint through rate. The division is of the Chicago and Milwaukee rate. There is no division of this arbitrary. It accrued to the line north (Tr. 5072-5073-5074).

The lines north and east of Kansas City get no part of the Texas divisions or arbitraries. It is correct to show that these arbitraries stand on about the same basis except that I would like to add to this, when you come to a rate prorate basis, the lines for instance in Wisconsin, had

elected, I suppose of their own volition, to extend the Chicago basis of rates clear up into Wisconsin on traffic moving to the Missouri River and that consequently it seems to me, that the difference in the proportion which accrues to them under this compounded division and the average of their local ten class rates from the point of origin to the Missouri River, if you please, might be given some consideration (Tr. 5074-5075).

When we make a comparison between the division north and the local rate, if it operated to reduce the revenue of [fol. 801] the line north, I think that would mean that the Southwestern lines would participate in the arbitraries. I rather think the Southwestern Lines might participate in the arbitrary when you take into consideration that that arbitrary results in a greater division than the local rate. I can't see any reason why a line anywhere, speaking generally, should get more than its local rate. There is a difference in the arbitraries applied in Texas. Where we have a differential that differential applies on traffic to or from the Missouri River as well as it does on traffic to or from points east of the Missouri River. Now this is not true or that is not true as to the lines north and east of Kansas City. They have an arbitrary, for instance, in use in determining the joint through rate from a point in the Fox River Territory, we will say, to a Texas Common Point, but when they come to traffic moving to the Missouri River, they use exactly the same rate as is in effect from Chicago. I reach the conclusion that the Southwestern Lines should participate in the arbitrary north but that the Northern Lines should not participate in the arbitrary south because the circumstances are not similar (Tr. 5075-5076).

Referring to Exhibit A-135 the Rock Island and the Northwestern are not the only roads that participate in that situation through Des Moines. The Santa Fe has been forced in on it. The Santa Fe does not actually pay that money to the Northwestern. The result is this, the only way the Santa Fe could ordinarily get this traffic would be through some line other than the Rock Island. When that traffic is delivered to us at Kansas City, our Freight Accounting Department would probably settle on the basis of

the basic division, 30 per cent if you please, north and east of Kansas City. Then subsequently the line which took that traffic from the Northwestern at Des Moines and gave it to the Santa Fe at Kansas City would as I know, approach the Santa Fe and ask them to participate in the absorption of the proportion of the Northwestern on exactly [fol. 802] the same basis as the Rock Island division to the Northwestern. We have done this in a great many instances. I think these divisions also apply only southbound. This is another of those things similar to the 15 per cent allowance north of Chicago. All of these divisions which have come into existence through Chicago, Marshalltown, Omaha and so forth are all carrier competition divisions (Tr. 5077-5078).

I can not concede that the density figures should not be taken for their full face value because the net profit per ton in Western Trunk Line territory is less than the net profit per ton in Southwestern Territory. Density figures mean a very great deal because if you assume that two lines have a value each of $50,000.00 per mile of line and that one line has twice the density of the other line, why then it is going to take a considerably higher return to the line which has the lesser density to enable it to pay the same rate of return which the line could pay which has the higher density (Tr. 5078-5079).

Examiner Disque: I understood that all right, that was not exactly my question. My point was this: To some extent this density showing should not be taken for its face value because the net earnings per ton in Western Trunk Line Territory are not as great as the net earnings per ton in Southwestern Territory? I am talking about now only the expense of the transportation and not the overhead.

The Witness: Well, I think that is true. You can't take this density figure alone and figure divisions on it. This is one of the many factors which enter into the question of arriving at a just and reasonable division (Tr. 5079).

I got my density figures by states from Mr. Wettling. I think that those density figures reflected as he has divided them, correctly reflect the situation as nearly as possible. I have a high regard for Mr. Wettling. I don't know what

method he used. I only know that he is an exceedingly [fol. 803] capable man and I should say that any method he did use was as nearly as correct a method as human individuality could devise. He devised it on behalf of the lines in the Western District, including the Western Trunk Lines (Tr. 5079-80).

If it was necessary in order to pay a fair return, that one line in the Western Trunk Line Territory and one in the Southwestern Territory should earn a thousand dollars net revenue per mile and the Western Trunk Line had twice as much density, then it would be necessary for each unit of traffic in the Southwest to pay twice as much net revenue as in Western Trunk Line Territory, assuming the operating ratio was the same. Speaking only of the profit necessary to pay a net return on an equal value, I think that is correct (Tr. 5080-5081).

L. J. SICKEL was thereupon called as a witness and testified as follows:

Direct examination:

I am Assistant General Freight Agent in charge of Divisions for the Missouri Pacific Railroad and I have occupied that position for the last four years. Prior to that time I have been Chief Clerk in charge of Divisions for about ten years. I had experience solely in the Accounting Department for about twenty years and finally Chief Clerk in the Inter-Line Division. I have made a study of this case and I am familiar with all the issues involved (Tr. 5081-2).

The Southwestern Lines found it necessary to assign the testimony with respect to divisions to individual carriers depending upon the gateways or the states in the Southwest in which their line is more vitally interested. The Missouri Pacific Railroad have been allotted the task of testifying with respect to divisions on traffic between points in Western Trunk Line Territory covered by this proceed- [fol. 804] ing and Arkansas, Louisiana, Texas and Oklahoma via St. Louis, Missouri-East St. Louis, Illinois, also Cairo-Gale-Thebes, Illinois, gateways; also divisions be-

tween points in Western Trunk Line Territory west of the Mississippi River and Arkansas, including petroleum from Arkansas and Louisiana points via all crossings, fruits and vegetables from Oklahoma, Arkansas and Louisiana, ore from Oklahoma and Arkansas, and several other commodities from Louisiana points. My testimony will, therefore, include all of the interest Southwestern Lines in connection with the divisions via the several gateways and Southwestern States previously mentioned (Tr. 5082).

Exhibit No. A-138 is a map showing the territorial boundaries into which Western Trunk Line Territory is grouped on traffic to and from the State of Arkansas for rate making purposes. The boundaries as shown on this exhibit have been made from the territorial descriptions as provided for in Southwestern Lines' Territorial Directory No. 1-G, I. C. C. No. 1665, which is the current Territorial Directory. There are a number of exceptions published in the Territorial Directory referred to, in fact, so many that it would not be possible to provide for them on this Exhibit, nor describe them in detail. This has reference more particularly to Davenport, Omaha, Minneapolis-St. Paul and Estherville Territory. The purpose of this Exhibit is to portray the general outlines of each Territory for rate making purposes and which have been followed largely in the various divisional arrangements, that is, divisions have generally been made with respect to territorial rate groupings. This map will enable the Commission to follow and to more clearly understand the various divisional arrangements in connection with my testimony, and I have found it valuable to have before me in preparation of my testimony (Tr. 5083).

[fol. 805] (The map described by the witness was received in evidence as Exhibit A-138.)

My Exhibit No. A-139 covers a list of Arkansas common points listed in F. A. Leland's Tariff No. 45-I, I. C. C. No. 961, effective December 12, 1912. Prior to October 7, 1913, joint through rates were in effect between points in Western Trunk Line Territory and Arkansas common points only, as listed on this Exhibit. There were no joint through rates between points in Western Trunk Line Territory and local points in Arkansas prior to October 7,

1913. It follows that no divisions were in effect between points in Western Trunk Line Territory except to and from Arkansas common points as shown on this Exhibit prior to October 7, 1913, because there were no joint through rates to and from other Arkansas points (Tr. 5084).

(The statement described by the witness was thereupon received in evidence as Exhibit A-139.)

[fol. 806] When I say Arkansas common points I mean the points taking Arkansas common point tariff and that is a list of all the stations at that time that were shown in that Tariff. Exhibit A-139 is composed of only one sheet (Tr. 5084).

My Exhibit No. A-140 covers ten representative local points in Arkansas, selected, on which has been shown the combinations on Classes 1 to E, inclusive, from Chicago to Milwaukee, Wisconsin, as in effect on October 6, 1913, or in other words, the day previous to the publication of joint through rates to and from Arkansas local points. This Exhibit shows the combinations over East St. Louis, also Cairo-Gale and Thebes, and the purpose of presenting this Exhibit is to show that prior to the date on which joint through rates were established to and from Arkansas local points, the lowest combination, with but five specific cases, was over the Cairo-Gale-Thebes gateway. The tariff authorities on which these combinations were based are shown on the Exhibit. This condition existed between points in Western Trunk Line Territory and Arkansas local points on all lines (Tr. 5085) (Tr. 5084).

(The statement described by the witness was thereupon received in evidence as Exhibit A-140.)

[fol. 807] My Exhibit No. A-141 shows the progression of differentials between Chicago, Milwaukee, Fox River and Estherville Territories that were and are used in the construction of joint through rates between points in the territories described and Arkansas common points originally and later Arkansas local points, the differentials being added to the rates between St. Louis, Missouri-East St. Louis, Illinois, and Arkansas points in the publication of joint through rates. The oldest Tariff in our files now available that published joint through rates between the territories

described and Arkansas common points is Missouri Pacific Railway Company Freight Tariff No. 2633, I. C. C. No. 753, effective October 1, 1896. That Tariff published rates only to and from Little Rock and Pine Bluff, Arkansas, at that time. It will be observed that effective October 1, 1896, the differential to and from Chicago Territory was 29 cents per 100 pounds on first class over the rates to and from St. Louis, Mo.; Milwaukee 35 cents, and Fox River Territory 55 cents. Effective June 1, 1898, in Missouri Pacific Railway Company Tariff No. 3179, I. C. C. No. 2666½, the differentials were reduced, Chicago first class being made 20 cents over the rates to and from St. Louis, Missouri-East St. Louis, Illinois and Milwaukee Territory was placed on the same basis as Chicago Territory, with the same corresponding reductions in the differential from Fox River Territory as from Milwaukee Territory. In other words, the first class Chicago differential was reduced from 29 cents per 100 pounds to 20 cents per 100 pounds, or a 9 cent reduction; Milwaukee was reduced from 35 cents per 100 pounds to 20 cents per 100 pounds, or a 15 cent reduction, and from Fox River Territory the reduction was 15 cents per 100 pounds on first class. All of the other class differentials were reduced on June 1, 1898, as compared with October 1, 1896, from the several [fol. 808] Territories mentioned, as will be observed. The particular point involved is that it will be seen Milwaukee Territory originally carried a spread beginning with 6 cents per 100 pounds on first class over Chicago Territory, and that with the reduction in the differentials from Chicago Territory on June 1, 1898, from 29 cents on first class to 20 cents, that Milwaukee Territory was placed on the same differential basis as Chicago Territory, so that on and after June 1, 1898, Milwaukee Territory enjoyed the same differentials as Chicago Territory, which affected the joint through rates correspondingly to and from Arkansas points. This made corresponding reductions from Fox River Territory. The differentials in existence at the present time reflect the June 1, 1898, differentials advanced 25 per cent under General Order 28, 35 per cent under I. C. C. Ex Parte 74, and the general 10 per cent reduction on July 1, 1922 (Tr. 5085-5086-5087).

(The statement described by the witness was thereupon received in evidence as Exhibit A-141.)

My exhibit No. A-142 comprises eight sheets and covers divisions between Chicago Territory, Peoria, Milwaukee Territory and Minneapolis-St. Paul Territory and Little Rock, Arkansas, the first four sheets via East St. Louis, Illinois, and the last four sheets via Cairo-Gale-Thebes, Illinois (Tr, 5087).

(The statement described by the witness was thereupon received in evidence as Exhibit A-142.)

[fol. 809] The Witness: With reference to Sheet No. 1, which deals with the divisions between Chicago Territory and Little Rock, Arkansas, via East St. Louis, Illinois, it will be noted from Block "A", the joint through rates effective October 1st, 1896, were constructed by adding differentials to the rates applying from East St. Louis, Illinois, to Little Rock, Arkansas, of 29 cents per 100 pounds on first class, and the differentials on other classes are also shown at that time that were used in the construction of the joint through rates. In division of these joint through rates at that time, the lines between Chicago, Illinois, and points in Illinois taking the same joint through rates and East St. Louis were published in Chicago & St. Louis Traffic Association Division Sheet No. 103, effective April 25th, 1896, and allowed the lines between Chicago Territory in Illinois and East St. Louis, Illinois, specifics beginning with 35 cents per 100 pounds on first-class; the specifics on the other classes being shown as of that date. It will be noted the divisions received by the lines north of East St. Louis, Illinois, exceeded the differentials on the first four classes, and beginning with fifth-class, the divisions on the remaining classes were the same as the differentials that were used in the construction of the joint through rates. I have shown the manner in which the joint through rates were constructed for the purpose of indicating, first the differentials that were used at that time over the rates from East St. Louis, Illinois, to Little Rock, Arkansas, and second, the spread between the divisions received by the Western Trunk Lines as compared with the differentials on the first four classes, and third, on Classes 5 to "E" inclusive, that the divisions

received by the Western Trunk Lines were the same as the [fol. 810] differentials used in the construction of the joint through rates, and as a result on Class 5 to "E" inclusive, the lines between East St. Louis, Illinois, and Little Rock, Arkansas, received their full local rate (Tr. 5088-5089).

Block "B" shows the joint through rates between Chicago Territory in Illinois and Little Rock, Arkansas, effective June 1st, 1898, the through rates being constructed on differentials over the rates between East St. Louis, Illinois, and Little Rock, Arkansas, but it will be observed that the differentials on June 1st, 1898, are lower than the differentials as of October 1, 1896 shown in Block "A" above. This resulted in the joint through rates between Chicago Territory in Illinois and Little Rock, Arkansas, being reduced to the extent of the reduction in the differentials between Chicago Territory in Illinois over East St. Louis, Illinois. In the division of these reduced rates, it will be observed that the lines between Chicago Territory in Illinois, and East St. Louis, Illinois, received the same specifics in cents per 100 pounds on each class as they received in division of the higher rates on October 1, 1896, because of the reduction in the differentials, and that no change was made in the specifics received by the lines between Chicago Territory and East St. Louis. The lines between East St. Louis, Illinois, and Little Rock, Arkansas, assumed the reduction out of their earnings because of the reduced differentials and corresponding reductions in the joint through rates (Tr. 5089-5090).

Block "C" indicates the reductions in the joint through rates, June 1, 1898 compared with October 1, 1896, and it also indicates that the Southwestern Lines assumed this reduction. This condition continued to and including No- [fol. 811] vember 15, 1914, on which date it will be observed that the differentials were the same as June 1, 1898, but owing to some readjustments in the rates between East St. Louis and Little Rock, on some of the classes, corresponding changes resulted in the through rates between Chicago Territory in Illinois and Little Rock, however, the divisions for the lines north of East St. Louis remained as indicated in Block "B" above. The purpose of showing the rates and the divisions in Block "D" as of November 15, 1914 was because on November 16, 1914 the divisions received by

the lines between Chicago Territory in Illinois and East St. Louis, Illinois were advanced 5 per cent, and to indicate that there was no change in the joint through rates between the dates of November 15 and November 16, 1914. The advance in the divisions was the result of a 5 per cent advance in the proportional rates between Chicago Territory and East St. Louis as published in E. B. Boyd's Tariff No. 506-D, I. C. C. No. 523, that tariff superseding previous serial issues, and was used as a division sheet because of the discontinuance of Chicago & St. Louis Traffic Association division sheets (Tr. 5090-5091).

It will be observed that the advance of 5 per cent in the proportional rates between Chicago Territory and East St. Louis as shown in Block "E" were not reflected by a corresponding advance in the joint through rates between Chicago Territory and Little Rock, Arkansas, and as a result the Southwestern Lines assumed out of their earnings the advance in the proportional rates. By reason of the reduction in the differentials previously mentioned, and which reduction was assumed by the Southwestern Lines, and the further reduction assumed by the Southwestern Lines because of the increase in the proportional rates between Chicago Territory and East St. Louis also previously mentioned resulted in a total shrink by the Southwestern Lines [fol. 812] as indicated by Block "G". The reduction referred to in Block "G" is solely on account of the reduction in the differentials, and the increase in the proportions north of East St. Louis by reason of the 5 per cent advance in the proportional rates, and does not reflect the total reduction by the Southwestern Lines below the local rates between East St. Louis and Little Rock. It will be observed that the Southwestern Lines received their full local rates on Classes 5 to "E" inclusive on October 1, 1896, because the divisions were the same as the differentials, but effective with the reduction in the differentials on June 1, 1898, the Southwestern Lines received on Classes 5 to "E" inclusive, divisions as much less than their local rates as the reduction that was made in the differentials on the same classes, and that this condition continued to and including November 16, 1914, except that on the latter date, the Southwestern Lines assumed a still further reduction because of the increase in the proportions north of East St. Louis. This

condition continued up to the time of government control (Tr. 5091-2).

I have next shown the situation as it exists currently. In Blocks "H" and "I", I have shown what the joint through rates would be if constructed on combinations by the use of proportional rates between Chicago Territory and Cairo, Gale and Thebes, and the local rates beyond, and similarly over East St. Louis, Illinois. It will be observed that the combination over Cairo, Gale and Thebes would make the lowest through rate, except on Class "D", and it will also be observed that the actual joint through rates as shown by Block "J" are considerably less than the combination over Cairo, Gale or Thebes by reason of the differentials which are less than the proportional rates between Chicago Territory and East St. Louis. I have shown in Block "E" the full proportional rates currently in effect between Chicago Territory and Cairo, Gale and Thebes, and the local rates [fol. 813] beyond, and similarly over East St. Louis, Illinois. It will be observed that the combination over Cairo, Gale and Thebes would make the lowest through rate, except on Class "D", and it will also be observed that the actual joint through rates as shown by Block "J" are considerably less than the combination over Cairo, Gale or Thebes by reason of the differentials which are less than the proportional rates between Chicago Territory and East St. Louis. I have shown in Block "E" the full proportional rates currently in effect between Chicago Territory and East St. Louis, and in Block "L" the divisions received by the lines north of East St. Louis, Illinois, as published in Illinois Freight Association Division Sheet No. 5. The divisions received by the lines north of East St. Louis exceed the differentials by the figures on each class as indicated by Block "M", further, to that extent there is a corresponding shrink in the proportions received by the Southwestern Lines south of East St. Louis as compared with the local rates between East St. Louis and Little Rock as indicated in Block "Q". It is here desired to point out that the proportions received by the lines north of East St. Louis, Illinois, currently are but slightly less than their full proportional rates as indicated by Block "N". This slight shrink between the full proportional rates and the divisions received by the lines north of East St. Louis is the result of the pro-

portional rates being advanced 40 per cent under I. C. C. Ex Parte 74, whereas, the divisions were advanced 35 per cent to correspond with the same advance in the joint through rates. The lines north of East St. Louis, Illinois, are receiving practically their proportional rates, whereas, the Southwestern Lines are shrinking considerably below [fol. 814] the local rates between East St. Louis, Illinois, and Little Rock, Arkansas, as contrasted with the situation on October 1, 1896, at which time the Southwestern Lines on 6 of the 10 classes received their full local rates (Tr. 5092-5093).

I have shown in Block "J" the joint through rates currently in effect, and it can be seen how much less the joint through rates are than the lowest combination as reflected by Block "H." If in division of the joint through rates the lines north of East St. Louis, Illinois, are entitled to approximately their proportional rates in division of through rates that are less than the combinations, then there is just as much reason why the Southwestern Lines should be accorded similar treatment. Because the joint through rates are less than the lowest combination it is quite evident that the shrink between such joint through rates, and the lowest combination has not been properly equalized when one group of lines receive almost their full proportional rates, and the other group of lines assumes practically the entire shrink between the lowest combination, that would obtain and the through rates (Tr. 5093-5094).

What I have said of Little Rock is equally true of all other Arkansas common points, because the through rates are constructed in the same manner, and the divisions received by the lines north of East St. Louis are the same currently as shown by Block "L". Another point that this Exhibit does not portray, is that in division of through commodity rates, the lines north of East St. Louis require their class specific, except commodities specifically shown in Illinois Freight Association Division Sheet No. 5. The division sheet referred to has no provision in it to that effect notwthstanding which the lines north of East St. Louis where such conditions exist have always required their class specific which makes a further unequal distribution of the [fol. 815] shrink between the through commodity rate as compared with a through class rate (Tr. 5094).

Sheet No. 2 shows an identical situation with respect to traffic between Peoria, Illinois, and Little Rock, Arkansas via East St. Louis, Illinois. This Exhibit reads Peoria Territory, and should be corrected, eliminating in the caption the word "territory" as there is no Peoria Territory on Arkansas traffic. Although the hauls between Peoria, Illinois, and East St. Louis are less than the hauls between Chicago and northern Illinois Point- and East St. Louis, the same joint through rates are in effect, and the divisions received by the lines north of East St. Louis are the same as from Chicago and other northern Illinois points. The proportional rates are also the same between Peoria and East St. Louis as between Chicago and other northern Illinois points and East St. Louis. This exhibit also indicates that the Northern Lines are receiving approximately their full proportional rates, and that their divisions for the shorter hauls between Peoria and East St. Louis are the same as for the longer hauls between Chicago and northern Illinois points and East St. Louis. The Southwestern Lines are shrinking the same figures in cents per 100 pounds below their local rates as from Chicago and other northern Illinois points. Certainly if there is no justification for the Southwestern Lines assuming practically the entire reduction between the through rates and the lowest combination on traffic from Chicago and other northern Illinois points, there is less justification for making the same shrink in cents per 100 pounds on traffic from Peoria, Illinois, because of the shorter hauls from Peoria as compared with the longer hauls from Chicago and other northern Illinois points; further, there is no justification for the lines between Peoria and East St. Louis receiving the same earn-[fol. 816] ings as the lines between Chicago and East St. Louis. From Exhibit No. A-138 it will be observed that Chicago Territory extends to within a short distance of East St. Louis on the south, so that the lines north of East St. Louis for even shorter distances than between Peoria and East St. Louis receive the same revenue as between Chicago and East St. Louis. It is true there is a provision in Illinois Freight Association Division Sheet No. 5, that the lines north and south of East St. Louis are limited to their current local or proportional rates as maximum, so that should the specifics shown on Sheet 2 exceed the local or proportional rates for the lines north of East St. Louis they

would be held down to their local or proportional rates. There is no justification for one group of lines receiving divisions almost equal to their proportional rates in the division of a joint through rate that is less than the combination, and forcing another group of lines to assume the entire reduction between the lowest combination and the joint through rate (Tr. 5095-5096).

There are a large number of points that are located in Chicago territory in Illinois not named in Illinois Freight Association Division Sheet No. 5 from and to which joint through rates are made over the local commodity rate to or from East St. Louis by the use of the Chicago territory class differential, and in such cases lines north of East St. Louis usually require the same divisions as published in that division sheet between Chicago or Peoria and East St. Louis, both being alike regardless of their hauls, some of which are intermediate with such points as Peoria, Bloomington, Springfield, Decatur and Danville, and their hauls are probably one-half and frequently one-third the distance between Chicago and East St. Louis, with the limitations of locals as maximum. In all such cases the Southwestern Lines are shrinking the same amount in cents per 100 pounds below the local commodity rates between East St. [fol. 817] Louis and Little Rock or other Arkansas common points as indicated by Sheets 2 and 3, and when commodity rates are published between East St. Louis and Little Rock, or other Arkansas points that are lower than the class rates, the Southwestern Lines assume the same shrink below their local commodity rates as they would assume in division of a class rate. This is one of the inconsistencies of allowing class divisions to the lines north of East St. Louis in division of through commodity rates, and there can be no justification for expecting or requiring the Southwestern Lines to make the same shrink below their local commodity rates as they would should such traffic move under through class rates. This is a situation that should be remedied by the lines north of East St. Louis accepting the same percentage of the class division that the through commodity rate is of the through class rate, or the substitution of percentages for specifics to apply on all traffic (Tr. 5098-5097-5098).

Sheet No. 3 shows the rates and divisions between Milwaukee Territory and Little Rock, Arkansas, via East St.

Louis, Illinois. Block "A" shows the through rates between Milwaukee Territory and Little Rock, and the differentials that were used, effective October 1, 1896, and Block "B" shows the joint through rates and the differentials in constructing joint through rates between Chicago territory and Little Rock, Arkansas, effective on the same date. Block "C" indicates the spread in the differentials, Milwaukee Territory over Chicago Territory, effective October 1, 1896, which spread is reflected in the joint through rates, Milwaukee Territory over Chicago Territory. Block "D" shows the divisions between Milwaukee Territory and Little Rock, Arkansas, via East St. Louis, effective October 1, 1896, indicating that the divisions received by the [fol. 818] lines between Milwaukee, Wisconsin, and East St. Louis, Illinois, exceeded the divisions between Chicago Territory and East St. Louis by the spread in the differentials, Milwaukee Territory over Chicago, and as a result the Southwestern Lines received the same revenue from Milwaukee territory as they received from Chicago Territory. This is shown more specifically by Block "D" which shows the specifics received by the lines between Milwaukee Territory and East St. Louis, and between Chicago Territory and East St. Louis, and the spread in the divisions which it will be observed are the same as the spread in the differentials, indicated by Block "C," in other words, on Milwaukee traffic the Southwestern Lines received Chicago Territory revenue, and the lines north of East St. Louis because of their greater haul from Milwaukee Territory as compared with the Chicago Territory received greater divisions, because of the spread in the differentials which was reflected by a corresponding spread in the through rates (Tr. 5098-9).

Block "E" shows that effective June 1, 1898, the through rates between Milwaukee Territory, and Little Rock were the same as between Chicago Territory and Little Rock. This is caused by the elimination of the Milwaukee differentials and the substitution of the Chicago differentials to apply from and to Milwaukee Territory. Further, as previously pointed out, effective June 1, 1898, the Chicago differentials were reduced from 29 cents per 100 pounds on first-class to 20 cents per 100 pounds, with relative reductions on the other classes. This had the effect of reducing the Milwaukee differentials over East St. Louis on first-

class for example, from 35 cents per 100 pounds on October 1, 1896, to 20 cents per 100 pounds on June 1, 1898. Notwithstanding this reduction in the differentials. It will be noted from Block "E" that in the division of these reduced rates caused solely by the reduction in the differentials, [fol. 819] that the lines between Milwaukee, Wisconsin, and East St. Louis, Illinois, received as their division of such reduced rates the same specifics in cents per 100 pounds on each class as they received in division of the higher rates on October 1, 1896, and as a result of the elimination of the Milwaukee differentials and the substitution of the Chicago differentials to apply to and from Milwaukee Territory, and the further reduction in the differentials to and from Chicago Territory, the Southwestern Lines assumed the entire reduction, and the northern lines continued to receive the same divisions as formerly (Tr. 5099-5100).

Block "F" indicates the shrink in the joint through rates brought about by the reduction in the differentials referred to. The shrink caused by the Southwestern Lines below their local rates at that time is not shown, but merely the shrink that was made in the differentials. It will be observed that effective October 1, 1896, on Classes 5 to "E" inclusive, the divisions received by the lines between Milwaukee Territory and East St. Louis as shown in Block "D" were the same as the differentials, so that at that time the Southwestern Lines received their full local rates. The divisions as shown between Milwaukee, Wisconsin, and East St. Louis, effective October 1, 1896, were published at that time in Chicago & St. Louis Traffic Association Division Sheet No. 103, effective April 25, 1896, and the same specifics referred to were later published as proportional rates between Milwaukee Territory and East St. Louis in Agent E. B. Boyd's Tariff No. 506-Series. The above condition continued from June 1, 1898, to November 16, 1914. On the latter date the same joint through rates were in effect as on June 1, 1898, and were constructed on the basis of the Chicago differentials over the rates applying between East St. Louis and Little Rock or other Arkansas common points. There were some readjustments in the rates between East St. Louis and Little Rock, beginning with [fol. 820] fourth-class to "E" inclusive, but the differentials Milwaukee over East St. Louis were not changed. On November 16, 1914, the proportional rates between Mil-

waukee and East St. Louis were advanced 5 per cent, and the lines north of East St. Louis received their full proportional rates between Milwaukee and East St. Louis as indicated by reference to E. B. Boyd's Tariff No. 506-D, I. C. C. No. A-523, that tariff being used as a division sheet. The Southwestern Lines assumed this additional shrink as indicated by Block "H," and in this block I have shown the shrink in the earnings by the Southwestern Lines by reason of the 5 per cent advance in the divisions north of East St. Louis plus the shrink caused by the substitution of the Chicago differentials to apply to and from Milwaukee Territory, or a total shrink on first-class of 17.1 cents per 100 pounds with relative shrinks on the other classes (Tr. 5100-5101).

These proportional rates applied on traffic to or from points in Arkansas to Southeastern Missouri, to and from which there were no joint through rates. The differentials applied originally to and from Arkansas common points. Then on October 7, 1913, those differentials were applied in making joint through rates to and from Arkansas local points. Prior to that October 7, 1913, there were no joint through rates to and from Arkansas local points and the proportional tariff was used to make your joint through charge and the lowest combinations applied were over East St. Louis or Cairo-Gale-Thebes. Now that is the purpose of that exhibit, there where I have shown the operation over East St. Louis and over Cairo-Gale-Thebes to quite a number of representative local points, to show that the actual combination was over Cairo-Gale or Thebes. Originally on Arkansas common points the division sheet was used and I made reference to the Chicago St. Louis Traffic Association Division sheet No. 103. Now that division [fol. 821] sheet was later cancelled and those same specifics published as proportional rates in Boyd's Tariff 506. Following that that tariff was used as a division sheet on both Arkansas common point and local points (Tr. 5101-5102-5103).

It will be observed that while joint through rates between Milwaukee Territory and Little Rock and other Arkansas common points were placed on the same basis as Chicago by reason of the elimination of the Milwaukee differentials, the lines north of East St. Louis nevertheless maintained

the same spread in their proportional rates between Milwaukee Territory and East St. Louis over Chicago as originally existed in the differentials, and that this spread was further increased by reason of the 5 per cent advance in the proportional rates between Milwaukee Territory and East St. Louis. As a result the Northern lines continued to receive as their division between Milwaukee and East St. Louis the same spread over the division between Chicago and East St. Louis as originally existed in the differentials, Milwaukee over Chicago, but that because of the discontinuance of the Milwaukee differentials as originally existed, and the substitution of the reduced Chicago differentials, the lines north of East St. Louis did not participate in the reduction in any manner, but the Southwestern Lines assumed all of these reductions, the sum total of which is indicated in Block "H." This condition existed from November 16, 1914, to the period of government control (Tr. 5103).

I have next shown what the situation is currently, by making a comparison between the current joint through rates, Milwaukee Territory and Little Rock, Arkansas, and the manner in which such joint through rates are constructed as compared with the lowest combination of proportional and local rates over Cairo-Gale-Thebes, Illinois, [fol. 822] and East St. Louis. It will be observed that with the exception of Class "E," the Cairo-Gale-Thebes, Illinois, combination would make a lower joint through charge than over East St. Louis, but that the joint through rates as indicated by Block "E" as currently in effect are lower than the lowest combination over Cairo-Gale-Thebes. I have shown in Block "L" the proportional rates published currently between Milwaukee Territory and East St. Louis, and in Block "M" I have shown the divisions as currently in effect. It will be observed from Block "O" that the lines between Milwaukee Territory and East St. Louis are receiving divisions currently that are almost equal to their full proportional rates, the slightest difference being caused by the 40 per cent advance under I. C. C. Ex Parte 74 in the proportional rates, and the divisions reflecting a 35 per cent advance because the joint through rates were advanced 35 per cent. Block "P" shows the specifics in cents per 100 pounds on each class that the Southwestern Lines shrink

below the local rates between East St. Louis, Illinois, and Little Rock, Arkansas (Tr. 5104).

I don't show how much lower these divisions are than the local rate because the local rate was never used in the construction of the joint through rates at any time but the proportional rates were used in the construction of joint through rates. That is why I made that comparison and when they substituted the differentials for the proportional rates, why the Southwestern Lines took care of all of that shrink. Now if we had never established any joint through rates to and from Arkansas local points, why the Southwestern Lines would not have continued to assume all of these shrinks I have shown here. They would have continued to receive some of the revenue that they formerly did. The local rates of the lines south or west of East St. Louis were used in the construction of the joint through charges in connection with the proportional rates north and east. My exhibit shows the shrink that the Southwestern [fol. 823] Lines are making in their divisions below the local rates. The proportions of the lines north and east of East St. Louis are the divisions at present, and approximate their proportional rates which were the rates which were used at one time in constructing these joint through charges to and from Arkansas local points. Prior to the time the proportional rates were published, the combination of locals was the only basis we had. These proportional rates were really the outgrowth of the specifics that were published by the Chicago St. Louis Traffic Association in Division Sheet No. 103. I think that is the number. They were applied as proportional rates north of St. Louis and East St. Louis on both northbound and southbound traffic. A great many of the commodity rates were made though. Cotton seed products was one of them. The publication of the proportional rates north of the gateways operated to reduce the through charge, but the entire reduction was sustained by the Northern Lines. But when it came to a division of the through rate which was produced by a combination of local rates and proportional rates, the Southwestern Lines shrunk their local rates so when we got through both had shrunk our rates. That is true as far as the Arkansas local points are concerned, but when we come to Arkansas common points, this Chicago & St. Louis Traffic Association Division Sheet No. 103 published these spe-

cifics that I have mentioned as divisions to and from Arkansas common points. Those rates were made by the use of the differentials that I have mentioned. Now later on naturally by the use of these proportional rates, every carrier to and from Arkansas local points, as compared with common points, it naturally produced a higher through charge to intermediate local points as to common points beyond and that was the reason why joint through rates had to be established to and from Arkansas common points (Tr. 5105-6-7-8).

I've another exhibit here, Mr. Examiner, that covers the Arkansas local situation, that will be the next exhibit. [fol. 824] Block "P" shows the specifics in cents per 100 pounds on each class that the Southwestern Lines shrunk below local rates between East St. Louis and Little Rock, Arkansas, and that the divisions received by the lines between Milwaukee Territory and East St. Louis reflect the same spread in cents per 100 pounds in excess of the differentials that are used in the construction of the joint through rates, so that while we have joint through rates that are constructed on differentials over East St. Louis that are 50 per cent of the full proportional rates between Milwaukee and East St. Louis, the lines between Milwaukee and East St. Louis as their division receive approximately their full proportional rates, and the Southwestern Lines are shrinking below their local rates the spread between the divisions accruing between Milwaukee Territory and East St. Louis and the differentials used in the construction of joint through rates. I again want to point out that effective October 1, 1896, that on 6 out of the 10 class rates the Southwestern Lines received their full local rates, whereas, today, the Southwestern Lines are receiving much less than their local rates, the specific figures being shown in Block "P." There is no justification for the Southwestern Lines being required to assume the entire reduction in the differentials that were made on June 1, 1898, compard with October 1, 1896, and as the Southwestern Lines received Chicago revenue to and from Milwaukee Territory on October 1, 1896, there would be ample justification for the Southwestern Lines, that on and after June 1, 1898, they should have continued to receive Chicago revenue on traffic to or from Milwaukee Territory. This feature will be dealt upon more specifically later on in my testimony (Tr. 5108-5109).

[fol. 825] We also have the same condition as previously pointed out in connection with through commodity rates between Milwaukee Territory and Arkansas common points, in division of which the lines north of East St. Louis require their class specific, except on such commodities on which specifics are published in Illinois Freight Association Division Sheet No. 5, which again forces the Southwestern Lines to make the same shrink in the division of through commodity rates as they would shrink in division of a through class rate making a disproportionate shrink on the part of the Southwestern Lines. Sheet No. 4 of this Exhibit shows divisions between Minneapolis-St. Paul territory and Little Rock, Arkansas, via East St. Louis, Illinois. Block "A" shows the joint through rates effective October 1, 1896 and the differentials then observed over East St. Louis, the basing point. The divisions then in effect are also shown and were published in Chicago and St. Louis Traffic Association Division Sheet 103, effective April 25, 1896. It will be noted that the divisions received by the lines between Minneapolis-St. Paul territory and East St. Louis were the same as the differentials used in connection with the joint through rates on six of the ten classes. This had the effect of the lines south of East St. Louis receiving their full local rates. The same can be said of the lines between Minneapolis and East St. Louis, except that the specifics were later published as proportional rates (Tr. 5109-5110).

Block "B" shows the joint through rates effective June 1, 1898 and the differentials observed in the construction of the through rates. It will be observed that the differentials Minneapolis-St. Paul territory over East St. Louis were reduced from 55 cents on October 1, 1896 to 40 cents on [fol. 826] June 1, 1898, and relative reductions in differentials on the remaining classes. This was brought about by the discontinuance of the Milwaukee-Wisconsin differentials and the substitution of the reduced Chicago differentials to and from Milwaukee territory resulting in the same reduction in the differentials Minneapolis-St. Paul territory over East St. Louis, Illinois, as between Milwaukee territory and East St. Louis, Illinois, or for example, 15 cents per hundred pounds on first class. It will be observed that lines between Minneapolis-St. Paul terri-

tory and East St. Louis continued to receive the same divisions effective June 1, 1898 as they received October 1, 1896, and as a result the Southwestern Lines assumed the shrink by reason of the reduction in the differentials referred to. This shrink is shown in Block "C". In my judgment there was no justification in the Southwestern Lines assuming the total shrink in the joint through rates made on June 1, 1898 as compared with October 1, 1896, because such reductions were caused solely by the reduction in the differentials from Minneapolis-St. Paul territory, the basing point being East St. Louis, Illinois (Tr. 5110-5111).

There would have been some justification for the Southwestern Lines taking the position that the lines South of East St. Louis would require Chicago revenue, because prior to the reduction in the differentials from Milwaukee and Minneapolis-St. Paul territory the lines south of East St. Louis did actually receive Chicago revenue (Tr. 5111).

Block "D" shows the joint through rates effective November 16, 1914 and the divisions allowed the lines between Minneapolis-St. Paul territory and East St. Louis, Illinois. It will be observed that the divisions were increased on November 16, 1914 to the extent of the specifics on each class [fol. 827] as shown by Block "E". The basis for this increase was brought about by the increase of 5 per cent in the proportional rate between Milwaukee territory and East St. Louis, and as the Southwestern Lines on Minneapolis-St. Paul territory traffic received the same revenue as on Milwaukee territory traffic, the same increase was made in the divisions between Minneapolis-St. Paul territory and East St. Louis as was made between Milwaukee territory and East St. Louis on November 16, 1914. There was no justification for the Southwestern Lines allowing the increase shown by Block "E" on November 16, 1914, to the lines north of East St. Louis, because the 5 per cent advance was not made in the rates published between Minneapolis-St. Paul territory and East St. Louis; however because of the fact that Southwestern Lines received Milwaukee revenue and because there was a 5 per cent advance in the proportional rates between Milwaukee territory and East St. Louis, which, as previously explained, was re-

flected by allowing the lines between Milwaukee territory and East St. Louis the 5 per cent advance in their divisions. It follows automatically the same increases were allotted to the lines between Minneapolis-St. Paul territory and East St. Louis. There was no justification for the Southwestern Lines allowing this increase to the lines north of East St. Louis, but on the contrary, the Southwestern Lines should have received Chicago revenue the same as they received on October 1, 1896. As a result of the generosity and oversight of the Southwestern Lines, reduction in their revenue resulted as reflected in Block "F", effective November 16, 1914, so that from June 1, 1898 to, but not including November 16, 1914, the Southwestern Lines assumed a shrink in their revenue by the specifics as reflected by Block "C" for which there was no justification whatever, and that from November 16, 1914 to the period of government control, the Southwestern Lines assumed a further shrink as reflected by Block "E", for which there was, beyond any [fol. 828] argument, no justification therefor, so that from November 16, 1914 to the period of government control the Southwestern lines assumed a shrink in their revenue as reflected by the specifics in each class shown in Block "F" and this condition has been perpetuated up to the present time.

I have next shown the situation with respect to rates and divisions as currently in effect as reflected by Blocks G, H and I. The reduced differentials, previously mentioned, are reflected in the current differentials, that is, the reduced differentials as of June 1, 1898 advanced 25 per cent under General Order No. 28 and later advanced 35 per cent under I. C. C. Ex Parte 74, and later reduced 10 per cent under the general reduction of 1922, results in differentials as indicated in Block "G" in constructing joint through rates, Minneapolis-St. Paul territory over the basing point, East St. Louis. In division of the rates as currently in effect the Southwestern Lines receive the same revenues as on similar traffic to or from Milwaukee territory and the lines north of East St. Louis receive the remainder of the joint through rates to or from Minneapolis-St. Paul territory. It will be observed that the divisions between Minneapolis-St. Paul territory and East St. Louis, Illinois, exceed the current

local rates between Minneapolis-St. Paul territory and East St. Louis, with the exception of Class "A," so that the lines north of East St. Louis, with the exception of Class "A", receive currently their full local rates. The lines south of East St. Louis do not receive as generous a division as will be observed from the specifics shown in Block "I", and that the Southwestern Lines are shrinking divisions as much less than their local rates between East St. Louis, Illinois, and Little Rock, Arkansas, as indicated by specifics shown in Block "I". If the Southwestern Lines had taken the position, as they should have, that they should [fol. 829] receive Chicago revenue on traffic to and from Minneapolis-St. Paul territory on and after June 1, 1898, a more equitable distribution would have resulted and the lines north of East St. Louis would not be receiving currently their full local rates, nor would the lines south of East St. Louis be assuming the entire shrink between the divisions received by the lines north of East St. Louis currently and the differentials used in the construction of the joint through rates over the base point East St. Louis, whatever opinion is entertained with respect to the proportions received currently by the lines between Minneapolis-St. Paul territory and East St. Louis, it follows in division of a joint through rate that is less than the combination where one group of lines receive in division their full tariff rates and the other group of lines assume the entire shrink between the divisions received and the differentials used in the construction of the through rates that the lines north of East St. Louis are receiving and divisions decidedly in excess of a reasonable division. We also have a similar situation with respect to traffic moving on through commodity rates on which the lines north of East St. Louis receive their class specifics in the absence of a specific commodity division from Milwaukee territory in Illinois Freight Association Division Sheet No. 5, so that in such cases the Southwestern Lines, in division of a through commodity rate, assume the same shrink below their commodity local rates between East St. Louis and Little Rock, Arkansas, and other Arkansas common points as they would shrink in division of a higher through class rate which reflects a still further disapportionate shrink

by the Southwestern Lines as certainly the Southwestern Lines should not shrink in cents per hundred pounds as much in division of a through commodity rate as they would shrink in division of a through class rate, the latter natu- [fol. 830] rally being higher. Later on, I will present exhibits showing the condition on several important commodities that are shipped from points in Minneapolis-St. Paul territory (Tr. 5113, 5114, 5115, 5116).

Sheet No. 5 covers the situation with respect to Chicago territory and Little Rock, Arkansas, via Cairo-Gale-Thebes, Illinois. Block "A" shows the joint through rates, effective October 1, 1896 and the differentials that were observed in their construction. It also shows the divisions received by the lines between Chicago territory and Cairo-Gale-Thebes, Illinois, the authority for which was Chicago and St. Louis Traffic Association Division Sheet No. 103, effective April 25, 1896, which later were published as proportional rates in E. B. Boyd's Tariff No. 506. We have a somewhat different situation via Cairo-Gale-Thebes, Illinois, as via East St. Louis, in that divisions received by the lines north of Cairo-Gale-Thebes, Illinois, exceeded the differentials over East St. Louis observed in the construction of the through rates, whereas via East St. Louis at that time the divisions and the differentials were alike on six of the ten classes so that the Southwestern Lines via Cairo-Gale-Thebes received less than their local rates. Effective June 1, 1898, as shown by Block "B", the through rates were reduced in amounts equal to the reduction in the differentials and the lines north of Cairo-Gale-Thebes, Illinois, continued to enjoy the same divisions out of the reduced rates as they received on October 1, 1896 in division of the higher rates so that the Southwestern Lines assumed the entire shrink in the through rates in their divisions, brought about only by the reduction in the differentials in Chicago territory over the base point, East St. Louis. This is reflected in Block "C" indicating the amount on each class that the Southwestern Lines assumed because of the reduction in the differentials (Tr. 5116-5117).

[fol. 831] I have next shown in Block "D" effective November 15, 1914, the through rates then in effect and the divisions. It will be observed there were some slight in-

creases in the through rates but this increase was made because of the advance in the base rates from East St. Louis, the reduced differentials continuing so that the lines between Chicago and East St. Louis made no contribution to the advance in the rates. The condition as outlined on June 1, 1898, continued to and including November 15, 1914. I have shown the rates and the divisions on November 15, 1914, so as to bring out this point, and further because on the following day, November 16, 1914, the same joint through rates were in effect as the day before; however, on November 16, 1914, as shown by Block "E," the lines between Chicago territory and Cairo-Gale-Thebes, Illinois, received an advance in their divisions to the extent of 5 per cent because the divisions received by the lines north of Cairo-Gale Thebes were the same as the proportional rates published in E. B. Boyd's Tariff No. 506-D, I. C. C. No. A-523, that tariff being used as a division sheet and as explained before, it superceded Chicago and St. Louis Traffic Association Division Sheets.

As a result of this increase the Southwestern Lines assumed a further shrink in their revenue as indicated in Block "F" so that beginning with November 16, 1914 and to the period of Federal Control, the Southwestern Lines assumed a total shrink on each class as reflected in Block "D," caused solely by the reduction in the differentials between Chicago and East St. Louis over the base rate on June 1, 1898, as compared with October 1, 1896, and because of the increase the divisions north of Cairo-Gale-Thebes, Illinois, on November 16, 1914, the 5 per cent advance in the proportional rates between Chicago territory and Cairo-Gale-Thebes, Illinois, was not reflected by a corresponding advance in the joint through rates so that in my judgment the Southwestern Lines from June 1, 1898, to [fol. 832] the period of Government control assumed a shrink in their revenue as indicated by Block "C" and "F", the total reflected in Block "G", that should have been assumed by the lines north of Cairo-Gale-Thebes, Illinois. In other words in my opinion the same reduction should have been made in the divisions between Chicago territory and Cairo-Gale-Thebes, Illinois, on June 1, 1898, as was made in the differentials on that date; further there was no justification for the allowance of the 5 per cent ad-

vance in the divisions north of Cairo-Gale-Thebes, Illinois, on November 16, 1914, inasmuch as there was no corresponding advance in the joint through rates or for that matter in the differentials. The situation could have been taken care of by making a corresponding advance in the differentials but this was not done. This action was justified by the decision of the Interstate Commerce Commission in I. C. C. Ex Parte 57, the so-called 15 per cent case, in which the Commission granted increased divisions to the extent only where joint through rates were increased to reflect the advances made to the lines east of the Mississippi River and where such increases were not made the lines east of the Mississippi River continued under that decision, to receive the same division of the joint through rates as they received prior to the 15 per cent advance in their local rates. What I say with respect to divisions between Chicago territory and Little Rock and other Arkansas common points via Cairo-Gale-Thebes, is also true with respect to divisions via East St. Louis from and to Chicago, Milwaukee and Minneapolis-St. Paul territory and it will also apply to succe-ding sheets of this exhibit (Tr. 5117-8-9).

I have next shown the situation as it currently exists. I have shown in Block "J", the through rates as currently in effect and how constructed. The differentials Chicago territory over the base point East St. Louis, beginning with 30½ cents per hundred pounds on first class is a continuation of the reduced differentials established on June 1, 1898, advanced under General Order No. 28, I. C. C. Ex. Parte 74, [fol. 833] and reduced in line with the general reductions of 1922. It will be observed that the joint through rates are less than the lowest combination of proportional and local rates over Cairo-Gale-Thebes, Illinois, and that notwithstanding that the joint through rates are less than the combination over Cairo-Gale-Thebes, Illinois, the Western Trunk Lines receive as their divisions, specifics that are almost equal to their full current proportional rates. This is brought out by Blocks "K" and "L" showing the full current proportional rates and Block "L" the divisions received by the Western Trunk Lines. The difference between the divisions received by the Western Trunk Lines and their full proportional rates is reflected in Block "M." It will be observed that the shrink in some cases is

only ½ cent per one hundred pounds, in other cases 1 cent. On the other hand Block "N" shows the shrink by the Southwestern Lines below their local rates indicating that the Southwestern Lines are assuming practically all of the shrinkage and on the other hand, the Western Trunk Lines are receiving pactically *all of the shrinkage and on the other hand the Western Trunk Lines are receiving practically* their full proportional rates (Tr. 5120).

We have the same situation, as previously mentioned, with respect to traffic moving on through commodity rates on which there are no commodity specifics in Illinois Freight Association Division Sheet No. 5. In every case the Western Trunk Lines require their class specifics compelling the Southwestern Lines to make the same shrink in their revenue in cents per hundred pounds below their commodity locals as they would shrink in division of the higher through class rate. Sheet No. 6 of this exhibit covers the situation between Peoria, Illinois, and Little Rock, Arkansas. At the top of this exhibit the word territory should be eliminated as there is no Peoria territory as [fol. 834] indicated by Exhibit No. 1, Peoria being in Chicago territory. All of what I have said with respect to Sheet No. 5 is applicable to Sheet No. 6, as the same rates and divisions over the various periods were and are in effect. The purpose of this sheet is to indicate to the Commission that the same joint through rates are in effect, as for example from Chicago or other northern Illinois points and more particularly to indicate that the lines between Peoria, Illinois, and East St. Louis are receiving the same divisions in cents per hundred pounds as for the longer hauls from and to Northern points. This situation is not peculiar to Peoria but is also applicable to all other southern Illinois points, for example, important points such as Springfield, Bloomington, Decatur, Danville and intermediate points. The hauls of the Western Trunk Lines are considerably less than on the same traffic from or to Northern Illinois points, notwithstanding which they receive the same earnings except should the divisions shown on this sheet for the Western Trunk Lines exceed their current local rates they would be limited to the latter. The Southwestern Lines are also limited to their local rates but they do not enjoy their local rates on any of this traffic

because in every case the Southwestern Lines divisions are substantially less than their local rates which has been brought out in Block "N". This sheet shows only the situation with respect to Little Rock and the identical situation obtains at all other Arkansas common points (Tr. 5121-5122).

It is true there are a number of Illinois points located in Chicago territory that are not shown in Illinois Freight Association Division Sheet No. 5. On account of the Chicago territory through rates applying the Western Trunk Lines ask for and receive the same specifics as shown in that division sheet between Chicago, Illinois, and Cairo-Gale-Thebes, Illinois.

Sheet No. 7 of this exhibit portrays the situation with respect to the rates and the divisions beween Milwaukee [fol. 835] territory and Little Rock, Arkansas, via Cairo-Gale-Thebes, Illinois. This sheet brings out the situation with respect to the rates and divisions as explained in connection with Sheet No. 3, via East St. Louis, Illinois. In other words, on October 1, 1896, it will be observed that the differentials Milwaukee territory over the base point East St. Louis, began with 35 cents on first class, the other classes being relatively lower and that the Milwaukee differentials were as much higher than the Chicago differentials as reflected by Block "C" (Tr. 5122-5123).

Block "D" shows the divisions between Milwaukee territory and Chicago territory and Cairo-Gale-Thebes, showing that in the division of the through rates on October 1, 1896, the Western Trunk Lines received the same spread in their divisions, Milwaukee territory over Chicago, as existed in the differentials. This situation was discontinued on June 1, 1898, on which date the reduced Chicago differentials were established and the original Milwaukee differentials were discontinued and the Milwaukee territory placed on the same differential basis as the reduced Chicago differential basis. This is shown by Block "E". It will be observed that the Western Trunk Lines continued to receive the same divisions on June 1, 1898, in connection with the reduced rates resulting from the reduced differentials as they received on October 1, 1896, so that the Southwestern Lines assumed the entire shrink by reason of

the elimination of the Milwaukee territory differentials and the substitution of the reduced Chicago differentials to apply to and from Milwaukee territory. This shrink is reflected in Block "F". Here again the Southwestern Lines, in my judgment would have been justified in continuing to receive Chicago revenue as they received on October 1, 1896, instead of the Western Trunk Lines receiving the same divisions out of the reduced rates resulting from the reduced differentials as they received prior to the elimination of the Milwaukee spread in the differentials over Chicago (Tr. 5123).

[fol. 836] In Block "G" I have shown the through rates on November 16, 1914, which were made on the same differential basis as on June 1, 1898; however, in division because of the 5 per cent advance in the proportional rates between Milwaukee territory and Cairo-Gale-Thebes, Illinois, the northern lines received an increase in their divisions to the extent of the increase of 5 per cent in their proportional rates, the divisions and proportional rates being alike because of E. B. Boyd's Tariff 506-D, I. C. C. No. A-523 was used as a division sheet. This shrink was also assumed by the Southwestern Lines as indicated by Block "H". As a result of the elimination of the Milwaukee differentials on June 1, 1898, and the substitution of the reduced Chicago differentials to apply to and from Milwaukee territory, together with the increase in the divisions to the Western Trunk Lines on November 16, 1914, on account of the 5 per cent advance in their proportional rates and divisions, the Southwestern Lines assumed a total shrink because of these two conditions as reflected at the bottom of Block "H". As stated before, in my judgment the Southwestern Lines should have continued to receive Chicago revenue. Further, because of the 5 per cent advance in the proportional rates and corresponding advance in the divisions to the Western Trunk Lines without a corresponding advance in the joint through rates, the Southwestern Lines should have continued to require Chicago revenue and when I say Chicago revenue, I mean the original specifics received by the lines between Chicago territory and East St. Louis as reflected in Block "B", but which do not include the 5 per cent advance. These specifics should have been the basis for determining the earn-

ings of the Southwestern Lines on the basis of Chicago [fol. 837] revenue. It can be seen from this exhibit that as a result of the generous disposition of the Southwestern Lines the conditions recited above continued from June 1, 1898 to, but not including, November 16, 1914, and on the latter date the Southwestern Lines made a further contribution to the Western Trunk Lines to the extent of 5 per cent and that the latter condition, plus the one mentioned between June 1, 1898, and November 15, 1914, continued to the period of Government control and thereafter until the present time (Tr. 5124-5125).

The next step reflects the situation currently as indicated by Block "I" to Block "O" inclusive. It will be observed from Block "K" that the joint through rates currently in effect are lower than the lowest combination over Cairo-Gale-Thebes, Illinois, notwithstanding which the Western Trunk Lines receive as their division, specifics indicated by Block "M" that are approximately their full current proportional rates, the latter shown in Block "L," the spread being only 7½ cents on the first two classes, 2 cents on the third class, 1½ cents on fourth and 1 cent on the remaining classes, whereas the divisions received by the Southwestern Lines are as much less than their local rates as are the specific figures set out in Block "O" (Tr. 5125).

Summing up the situation, the Southwestern Lines are assuming almost the entire shrink between the joint through rates as reflected in Block "K" and the lowest combination over Cairo-Gale-Thebes, Illinois, or more than 90 per cent on the average. I have previously pointed out that in division of through commodity rates on which there is no corresponding commodity specifics published in Illinois Freight Association Division Sheet No. 5, that the Western Trunk Lines require and receive their class specifics which results in the Southwestern Lines assuming the same shrink in cents per hundred pounds below their local [fol. 838] commodity rates as they would shrink in the division of a higher class rate and the Western Trunk Lines enjoy their class specifics the same as ~~in~~ division of a through class rate and therefore the Western Trunk Lines do not join in assuming any part of the difference between the lower through commodity rate and the higher through class rate. The above situation obtains not only at Little

Rock but at all other Arkansas common points with respect to what I have said in connection with Sheet No. 7 of this exhibit (Tr. 5126).

Sheet No. 8 portrays the situation with respect to traffic between Minneapolis-St. Paul and Little Rock and other Arkansas common points via Cairo-Gale-Thebes, Illinois. By reason of the elimination of the Milwaukee differentials over the base points East St. Louis, as existed on October 1, 1896, previously mentioned, and the substitution of the reduced Chicago differentials to apply to and from Milwaukee territory, Minneapolis-St. Paul territory was affected to the same extent as Milwaukee territory with respect to the reduction in the differentials in cents per hundred pounds on each class, so that on Minneapolis-St. Paul territory the Southwestern Lines are assuming identically the same shrink at various periods shown on this sheet as mentioned in connection with the previous sheet on Milwaukee territory traffic. The divisions received by the Western Trunk Lines on several of the classes are higher than the local-proportional rates, in one case they are the same and on the other classes the divisions received by the Western Trunk Lines are less than their local-proportional rates all of which is indicated in Block "I" (Tr. 5126-5127).

My next Exhibit No. A-143 comprises sixteen sheets. All of these sheets portray the situation with respect to rates and divisions between Chicago, Milwaukee and Minneapolis-Fox River Territories, including Peoria, Illinois, which is located in Chicago Territory, and local points [fol. 839] in Arkansas (Tr. 5127).

(The statement described by the witness was thereupon received in evidence as Exhibit A-143.)

[fol. 840] Prior to October 7, 1913, there were no joint through rates between points in Western Trunk Line Territory and local points in Arkansas. The joint through charge was made on the lowest combination over East St. Louis or Cairo-Gale-Thebes, Illinois, observing proportional rates published in E. B. Boyd's Tariff No. 506-B, I. C. C. No. A-281, effective May 1, 1912, and the local rates between East St. Louis or Cairo-Gale-Thebes, Illinois, and local points in Arkansas. The lowest combination was practically always over Cairo-Gale-Thebes, Illinois. I have

brought out this feature in Exhibit No. A-140 in which I have shown representative local points in Arkansas and on which I have shown the combinations over East St. Louis, also over Cairo-Gale-Thebes, Illinois, and it will be observed that from that Exhibit, that the Cairo-Gale-Thebes, Illinois, combination in practically all cases made a lower through rate charge than the East St. Louis combination. This situation obtained to and from all Arkansas local points. At that time, namely prior to October 7, 1913, on traffic interchanged at East St. Louis, Illinois, the Western Trunk Lines between Chicago, Illinois, and East St. Louis, Illinois, received 65 per cent of the proportional rates to or from Cairo-Gale-Thebes, Illinois, as their division. The 65 per cent referred to is the agreed percentage applying between Chicago, Illinois, and East St. Louis, Illinois, on traffic to or from Cairo-Gale-Thebes, Illinois, and reflects an actual mileage prorate using Chicago as the basing point on the north and Cairo, Illinois on the south. To and from other Illinois points the agreed percentages were applied via East St. Louis which varied depending upon the origin or destination in Illinois. For example, the agreed percentage between Peoria, Illinois and Cairo-Gale-Thebes, Illinois, via East St. Louis, Illinois, is 62 per cent north of East St. Louis and 38 per cent south. The division of 62 per cent north of East St. Louis is in excess [fol. 841] of an actual mileage prorate, nevertheless it is an agreed per cent. On traffic interchanged at Cairo-Gale-Thebes, Illinois, the lines north thereof received their full proportional rates and the lines south received their full local rates (Tr. 5127-8-9).

On October 7, 1913, joint through rates were established between points in Western Trunk Line territory and Arkansas local points on the same differential basis as was in effect between points in Western Trunk Line territory and Arkansas common points. The substitution of the differential basis in making joint through rates as against the Cairo-Gale-Thebes, Illinois, combination resulted in reductions in the joint through charges. I have brought out this situation on this Exhibit. Sheet 1 covers the rates and divisions between Chicago Territory and Bald Knob, Arkansas, which is a local point in Northern Arkansas located on the Missouri Pacific Railroad. Block A of this

Sheet shows the combination over Cairo-Gale-Thebes, Illinois, on October 6, 1913, and the through charge. It also shows that the lines north of East St. Louis receive 65 per cent of the proportional rates between Chicago Territory and Cairo-Gale-Thebes, Illinois, resulting in the specifics as shown in Block A. This situation obtained prior to October 7, 1913, and the specifics that I have shown north of East St. Louis on Bald Knob, Arkansas, reflect the divisions received by the Western Trunk Lines between Chicago Territory and East St. Louis, Illinois, on traffic to and from all Arkansas local points at that time (Tr. 5129-5130).

I have shown in Block "B" the through rates between Chicago Territory and Bald Knob, Arkansas, on October 7, 1913, and the divisions allowed the Western Trunk Lines north of East St. Louis. In Block C, effective October 7, 1913, I have shown the shrink between the joint through [fol. 842] rates established on October 7, 1913, and the lowest through charge that obtained prior thereto, based on the combination over Cairo-Gale-Thebes, Illinois. The shrink is shown in Block C on each class. In Block D I have shown the shrink assumed by the Southwestern Lines on October 7, 1913, as compared with October 6, 1913, because of the increase in the divisions to the Western Trunk Lines on October 7, 1913, as compared with October 6, 1913. This shrink is brought about by the fact that the lines between Chicago Territory and East St. Louis, Illinois, effective October 7, 1913, were allowed their full proportional rates as published in E. B. Boyd's Tariff No. 506-B, I. C. C. No. A-281. Because of the increase allowed to the Western Trunk Lines in their divisions on October 7, 1913, which the Southwestern Lines assumed, and because of the reduction in the joint through charge on October 7, 1913, which was also assumed by the Southwestern Lines, the total shrink on October 7, 1913, as compared with October 6, 1913, by the Southwestern Lines is reflected in Block E. There was no justification for the Southwestern Lines in division of the through rates established on October 7, 1913 on the differential basis, assuming the shrink in the joint through rates as compared with the combination previously in effect, and there was still less justification for the South-

western Lines allowing the Western Trunk Lines in division of the lower through rates, an increase in their divisions. If anything the total shrink should have been assumed by the Western Trunk Lines as reflected in Block E, or at least the Western Trunk Lines should have continued to accept 65 per cent of the proportional rates between Chicago Territory and Cairo-Gale-Thebes, Illinois, for their services to and from East St. Louis, as they received on October 6, 1913. This readjustment in the divisions had the effect of allowing the Western Trunk Lines an increased division out of the reduced joint through charges, and it had the effect of placing the entire burden [fol. 843] on the Southwestern Lines. This situation obtained not only on traffic to or from Bald Knob, Arkansas, but to and from all Arkansas local points on all lines (Tr. 5130-31).

This condition continued from October 7, 1913, to but not including November 16, 1914. On the latter date, the Southwestern Lines became still more generous by increasing the proportions to the lines north of East St. Louis to the extent of the 5 per cent advance in the proportional rates between Chicago Territory and East St. Louis, Illinois. This is reflected in Block F. On that date there was no change in the joint through rates so that by increasing the proportions to the Western Trunk Lines, the Southwestern Lines assumed a further shrink in their earnings to the extent indicated in Block G. The sum total of the generosity of the Southwestern Lines is indicated in Block H, so that on and after November 16, 1914 to the period of Federal control, the Southwestern Lines assumed the shrinks below their local rates as indicated in Block H, and the lines north of East St. Louis continued to receive their full proportional rates (Tr. 5131-5132).

The condition as pointed out beginning with November 16, 1914 to the period of Federal control, was reflected after Federal control except that it was increased by the several general advances and the one general reduction. I have shown the situation as it exists currently in Blocks I to P inclusive. It will be observed that the current joint through rates in Block K are considerably less than the lowest combination currently over Cairo-Gale-Thebes, Illinois, as shown by Block I, the latter being lower than the

combination over East St. Louis shown in Block J. In Block L I have shown the full current proportional rates between Chicago Territory and East St. Louis, and in Block M I have shown the divisions currently received by the Western Trunk Lines as published in Illinois Freight Association Division Sheet No. 5, which it will be observed are almost equal to their full proportional rates, the differ- [fol. 844] ence being caused by the proportional rates reflecting a 40 per cent advance under I. C. C. Ex Parte 74, and the divisions reflecting a 35 per cent advance, because the joint through rates were advanced only 35 per cent. The spread between the divisions received by the Western Trunk Lines and their full proportional rates is shown on each class in Block O. It will be observed that with but three exceptions, the Western Trunk Lines receive within one cent per 100 pounds of their proportional rates, and on Class D they receive their full proportional rates. On the other hand, the Southwestern Lines are assuming practically the entire shrink between the lowest combination and the joint through rates, or to explain the matter differently, the Southwestern Lines are assuming the shrink between the differentials currently in effect between Chicago Territory and East St. Louis, the base point, and the divisions received by the Western Trunk Lines. Summing up the situation, there is no reason why the Western Trunk Lines should not have continued to receive the same specifics on and after October 7, 1913, as they received on October 6, 1913, up to the period of Federal control, or in other words, 65 per cent of the proportional rates to Cairo-Gale-Thebes as shown in Block A, and that no increase should have been allowed the Western Trunk Lines by reason of the 5 per cent advance, so that the specifics shown in Block A should have continued up to the period of Federal control instead of the proportions received by the Western Trunk Lines as shown in Block B and Block F, and following Federal Control, the specific shown in Block A for the Western Trunk Lines as their divisions between Chicago Territory and East St. Louis should have been advanced in the same manner as the joint through rates were advanced under the several advances beginning with Federal control and reduced in line with the general reduction of 1922 (Tr. 5132-5133-5134).

[fol. 845] The Southwestern Lines are confronted with the same situation on traffic to and from Arkansas local points moving on through commodity rates on which there are no commodity specifics published in Illinois Freight Association Division Sheet No. 5 as previously explained to and from Arkansas common points, the Western Trunk Lines continuing to receive their class specifics in such cases, forcing the Southwestern Lines to assume the same shrink in cents per 100 pounds in division of through commodity rate as in division of a higher through class rate. Sheet No. 2 of this Exhibit shows the rates and divisions between Chicago Territory and Arkadelphia, Arkansas, via East St. Louis, Illinois. Arkadelphia is a local point on the Missouri Pacific Railroad located in the Southern portion of the State of Arkansas. I have prepared this sheet merely to indicate that the situation with respect to all other Arkansas local points is identical with that described in connection with Bald Knob, Arkansas, located in the Northern part of Arkansas, except it will be observed that from Block C, effective October 7, 1913, a greater shrink was made by the Southwestern Lines than was made in connection with Sheet No. 1 of this Exhibit covering traffic to and from Bald Knob, Arkansas, and that on November 16, 1914, as indicated in Block H, the shrink of the Southwestern Lines was increased above the shrink made at Bald Knob, Arkansas. This brings out the point that the greater the haul of the Southwestern Lines the greater the shrink in their revenue. That situation continued from October 7, 1913, to the period of Federal control and thereafter up to the time that the rates from St. Louis, Missouri, and East St. Louis, Illinois, to and from points in Arkansas were readjusted under the 9702 scale, so that beginning with the effective date of the latter scale, the shrink at all Arkansas points is uniform. This is reflected by a comparison of the shrinks made by the Southwestern Lines on [fol. 846] Sheet 2, which it will be noted are the same as the shrinks down on Sheet 1 (Tr. 5134-5135).

Sheet No. 3 of this Exhibit covers the situation between Peoria, Illinois, and Bald Knob, Arkansas, via East St. Louis, Illinois. The top of this Sheet should be corrected to read "Between Peoria, Illinois, and Bald Knob, Arkansas," instead of "Peoria Territory," because there is no

Peoria Territory, that point being located in Chicago Territory as indicated by Exhibit No. A-138. I have described the situation somewhat minutely in connection with Sheet No. 1 of this Exhibit, which covers Chicago Territory, and the situation is, therefore, almost similar, except that prior to October 7, 1913, the lines between Peoria, Illinois, and East St. Louis, Illinois, in division of the proportional rates between Peoria, Illinois, and Cairo-Gale-Thebes, Illinois, received 62 per cent whereas on Chicago they received 65 per cent. It will be observed that this results in a greater shrink by the Southwestern Lines below their local rates on October 7, 1913, on traffic to or from Peoria than indicated on Sheet No. 1 on traffic to or from Chicago. This is caused by the fact that on October 6, 1913, by reason of the 62 per cent division, the lines north of East St. Louis received less from Peoria, Illinois, as from Chicago, and the Southwestern Lines received a greater division south of East St. Louis than from Chicago. This situation was changed on October 7, 1913, because on that date and after, the line between Peoria, Illinois, and East St. Louis, Illinois, received their full proportional rates, which were the same as the proportional rates and the divisions received between Chicago, Illinois, and East St. Louis, Illinois, consequently the shrink by the Southwestern Lines on Peoria traffic was greater on and after October 7, 1913, than on Chicago traffic, notwithstanding which the hauls between Peoria and East St. Louis are considerably less than the hauls between Chicago and East St. Louis. This situation [fol. 847] is not only peculiar to Peoria, but other points to and from which the Peoria division of 62 per cent applies. Currently, the shrink by the Southwestern Lines on Peoria traffic is the same as the shrink on Chicago traffic as reflected by Block S, Sheet 3, as compared with Block T, Sheet 1, of this Exhibit. On the other hand, the lines between Peoria and East St. Louis are currently receiving approximately their full proportional rates, the slight shrink in their division below their full proportional rates being reflected in Block R, which reflects the same shrink as on Chicago traffic. Certainly there was no justification for the Southwestern Lines assuming as great a shrink on Peoria traffic as on Chicago traffic, because of the haul between Peoria and East St. Louis as compared with Chicago. On

the other hand, the Southwestern Lines should have continued to allow the Western Trunk Lines the same specifics between Peoria, Illinois, and East St. Louis, Illinois, on and after October 7, 1913, to the period of Federal control as the Western Trunk Lines received on October 6, 1913, as reflected in Block C, and the specifics referred to should then have been advanced in line with the general advances and the general reduction (Tr. 5135-5136-5137).

Sheet No. 4 of this Exhibit indicates the rates and divisions between Peoria, Illinois, and Arkadelphia, Arkansas, a local point on the Missouri Pacific Railroad in the Southern part of Arkansas. The Heading of this Sheet should be corrected to read—"Between Peoria, Illinois, and Arkadelphia, Arkansas," eliminating the word "Territory," as Peoria is in Chicago Territory. What I have said with respect to the divisions between Chicago Territory and Arkadelphia is applicable to Sheet No. 4, except that the shrink by the Southwestern Lines on October 7, 1913, is [fol. 848] greater on Arkadelphia, Arkansas, traffic than on Bald Knob, Arkansas, traffic, and further that the shrink at Arkadelphia on traffic to or from Peoria on October 7, 1913, is in excess of the shrink that was made by the Southwestern Lines at Bald Knob on traffic to or from Peoria or Chicago, bringing out the point that the greater the haul of the Southwestern Lines, the greater the shrink in their revenue. However, currently the shrink at Bald Knob and Arkadelphia is the same brought about by the readjustment in the rates under the 9702 scale (Tr. 5137-5138).

Sheet No. 5 of this Exhibit shows the rates and divisions between Milwaukee Territory and Bald Knob, Arkansas, a local point on the Missouri Pacific Railroad in Northern Arkansas, via East St. Louis, Illinois. On October 6, 1913, I have shown the combination over Cairo-Gale-Thebes, Illinois, to and from Chicago Territory, and in Block B I have shown the combinations over Cairo-Gale-Thebes on Milwaukee Territory. In Block B I have shown the spread in the proportional rates Milwaukee Territory over Chicago that they existed, which spread was reflected in the joint through charge. It will be observed that Milwaukee carried a spread over Chicago in the proportional rates of 6 cents beginning with the first class rate, and on the other classes, the spread was less, but in all cases the Milwaukee

proportional rates exceeded the Chicago proportional rates. I have previously pointed out in Exhibit No. A-140 that the combination over Cairo-Gale-Thebes, Illinois, was lower than the combination over East St. Louis, so that the joint through charge on Milwaukee traffic was based over Cairo-Gale-Thebes, Illinois, on October 6, 1913, and prior thereto. Block C of this street shows the joint through charge over Cairo-Gale-Thebes, Illinois, together with the local rates between Cairo-Gale-Thebes, Illinois, and Bald Knob, Arkansas, and the proportional rates between Milwaukee Ter-
[fol. 849] ritory and Cairo-Gale-Thebes, Illinois. The lines north of Chicago at that time received as their division 25 per cent of the Milwaukee Territory-East St. Louis, Illinois, proportional rates. This was covered by Chicago & St. Louis Traffic Association Division Sheet No. 103, as indicated by reference mark on this Sheet. The lines between Chicago and East St. Louis received 65 per cent of the balance of the Milwaukee Territory—Cairo-Gale-Thebes, Illinois, proportional rates, which was also covered by the same Division Sheet. The total proportions are also shown on the above Division Sheet that the lines between Milwaukee Territory and East St. Louis, Illinois received in division of the proportional rates between Milwaukee Territory and Cairo-Gale-Thebes, Illinois. The above condition existed prior to October 7, 1913, or in other words before joint through rates were established to and from Arkansas local points (Tr. 5138-9-40).

On October 7, 1913, joint through rates were established between Milwaukee Territory and Arkansas local points on the basis of the reduced Chicago differentials previously mentioned several times, resulting in joint through rates considerably less than the combination over Cairo-Gale-Thebes, Illinois, as will be observed by a comparison of the joint through rates shown in Block D as compared with Block B. In Block E, I have shown the through rates between Milwaukee Territory and Bald Knob, Arkansas, effective October 7, 1913, together with the divisions as of that date. It will again be observed that the lines between Milwaukee Territory and East St. Louis, Illinois, were allowed their full proportional rates between Milwaukee Territory and East St. Louis, Illinois, in division of the reduced rates, and that the Southwestern Lines assumed the entire

reduction in the joint through rates established effective October 7, 1913, as compared with the lowest combination over Cairo-Gale-Thebes, Illinois, on October 6, 1913, and [fol. 850] that the outhwestern Lines also assumed out of their earnings the increase on the divisions to the Western Trunk Lines made on October 7, 1913, and reflected in Block E, as compared with the divisions received by the Western Trunk Lines on October 6, 1913, as shown in Block C. This is brought out more clearly in Blocks F and G, which show separately the shrinks made by the Southwestern Lines, and Block H which shows the total shrink of the Southwestern Lines (Tr. 5140-5141).

It will be observed that on October 6, 1913, by reference to Block B, that there was a spread in the proportional rates—Milwaukee over Chicago, and this spread continued and is still in effect at the present time, except as increased under the several advances and reduced under the general reduction of 1922. This situation was reflected in the divisions at that time. With the establishment of joint through rates on October 7, 1913, on the basis of the reduced Chicago differentials, which were extended on June 1, 1898 to apply to and from Milwaukee Territory, the original spread—Milwaukee over Chicago of 6 cents on first class and relative spreads on the other classes, was discontinued although in the divisions the Western Trunk Lines continued to receive the original spread referred to, so that the substitution of the reduced Chicago differential to apply to and from Milwaukee Territory in establishing joint through rates on October 7, 1913, automatically had the effect of the Southwestern Lines assuming out of their earnings the original spread in the differentials—Milwaukee over Chicago Territory and the Western Trunk Lines in division continued to enjoy the original spread in connection with the reduced rates.

On November 16, 1914, in Block I, I have shown the joint through rates between Milwaukee Territory and Bald Knob, Arkansas, which were the same as the joint through rates on October 7, 1913, and the division of the joint [fol. 851] through rates, the proportions for the lines north of East St. Louis were increased to the extent of 5 per cent because of the increasé in the proportional rates to that extent as published in E. B. Boyd's Tariff No. 506-D, I. C. C.

No. A-523 which Tariff was used as a division sheet. The increase to the Western Trunk Lines because of the 5 per cent advance is shown in cents per hundred pounds on each class in Block J, so that beginning with November 16, 1914, as compared with October 6, 1913, the Southwestern Lines assumed the total shrink below their local rates as reflected in Block H, and the Western Trunk Lines received their full proportional rates. The condition recited continued from October 7, 1913 to the period of Federal control and thereafter to the present time changed only by General Order No. 28, I. C. C. Ex Parte 74 and the general reduction of 1922, which increases and the one decrease were reflected in the divisions of the Western Trunk Lines and results in the specifics as currently published in Illinois Freight Association Division Sheet No. 5 (Tr. 5141-5142).

I have next shown the situation as it exists currently. By reference to Block O, it will be observed that the joint through rates currently are lower than the lowest combination reflected in Block M. It will be observed that currently the combination over Cairo-Gale-Thebes, Illinois, from Milwaukee Territory over Chicago Territory as indicated by Blocks M and L reflects the spread in the proportional rates between Milwaukee Territory and Cairo-Gale-Thebes, Illinois, over Chicago Territory, but the joint through rates between Milwaukee Territory do not reflect the same spread but are on the same basis as Chicago Territory. Notwithstanding this situation, the lines between Milwaukee Territory and East St. Louis are currently receiving approximately their full proportional rates between Milwaukee Territory and East St. Louis, Illinois, as [fol. 852] shown by Block Q as compared with Block P, the latter Block indicating the full proportional rates currently in effect, the spread being shown by Block S. On the other hand, the Southwestern Lines are shrinking below their current local rates the specifics as indicated in Block T, which shrink currently reflects the advance between the divisions received by the Western Trunk Lines in excess of the differentials used in the construction of the joint through rates (Tr. 5142-5143).

It is evident that the Southwestern Lines, effective October 7, 1913, should have received the same revenue on traffic to or from Milwaukee Territory as they received on

traffic to or from Chicago Territory and that the Southwestern Lines should not have allowed the 8 per cent increase to the Western Trunk Lines on November 16, 1914. There is no justification in my opinion for the Western Trunk Lines receiving divisions approximating their proportional rates in division of a through rate that is lower than the combination of proportional and local rates, further, there is no justification for the Southwestern Lines assuming practically the entire shrink between the combinations referred to and the joint through rate made on the differential basis (Tr. 5143-5144).

Milwaukee was placed on the Chicago basis on traffic moving from that territory to points in Arkansas. Prior to that time the Milwaukee territory enjoyed a spread of 6 cents, beginning with the first class, over Chicago territory. The Southwestern Lines received Chicago revenue.

Now with the discontinuance of the original Milwaukee differential and the substitution of Chicago differentials to and from that territory, the western Trunk Lines continued to receive the same division as they formerly received, in other words their division Milwaukee territory over Chi- [fol. 853] cago reflected this 6 cents spread, so that the joint through rates were reduced to the extent of the reduction in the differentials and the Southwestern Lines assumed all of that reduction (Tr. 5144).

We also have the same situation with respect to traffic moving on through commodity rates on which the Western Trunk Lines, in the absence of a specific commodity division, receive their class specifics, forcing the Southwestern Lines to assume the same shrink in cents per hundred pounds in division of a through commodity rate as they would shrink in division of a higher through class rate. The Illinois Freight Association Division Sheet No. 5 which was placed in the record shows the commodity specifics that are published in that now. With that exception the class specifics apply in the division of the revenue under the through commodity rates. Of course there are some few commodities on which we have specific divisions like cotton seed products and so on, but generally speaking, why they are the exceptions. The exceptions are general in this division sheet to which I refer. There may be some few cases where you may have in the Division Sheet a Commodity

division of the through class rate. Now, that would be an injustice to the Western Trunk Lines. That is you may have a commodity specific division in that Division Sheet although you may have a joint through class rate. In that event, the commodity division sheet would apply to the class rate. To that extent it is an injustice to the Western Trunk Lines, but there are very few commodity specific divisions although a great many through commodity rates. That goes to show the injustice of allowing short lines a class specific of a through commodity rate or the reverse (Tr. 5145-5146).

Sheet No. 6 covers divisions between Milwaukee Terri- [fol. 854] tory and Arkadelphia, Ark, a local point on the Missouri Pacific Railroad in Southern Arkansas, via East St. Louis, Ill. It portrays the same situation as outlined above between Milwaukee Territory and Bald Knob, Ark., except that the shrink assumed by the Southwestern Lines on October 7, 1913, to November 16, 1913, was greater at Arkadelphia than at Bald Knob, although currently the shrinks in the divisions received by the Southwestern Lines are uniform (Tr. 5146).

Sheet No. 7 covers the divisions between Minneapolis-St. Paul Territory and Bald Knob, Ark., a local point on the Missouri Pacific Railroad in Northern Arkansas, via East St. Louis, Ill. Prior to October 7, 1913, there were no joint through rates between Minneapolis-St. Paul Territory and local points in Arkansas. The lowest through charge was made on the combination over Cairo-Gale-Thebes, Ill. There were no proportional rates between Minneapolis-St. Paul Territory and Cairo-Gale-Thebes, Ill., or East St. Louis, Ill.; therefore, the combination of locals applied, using W. H. Hosmer's Tariff No. 5-F, I. C. C. No. A-422. It will be observed that the combination over East St. Louis was lower than the combination over Cairo-Gale-Thebes, Ill., or East St. Louis, Ill.; therefore, the combination of locals applied, using W. H. Hosmer's Tariff No. 5-F, I. C. C. No. A-422. It will be observed that the combination over East St. Louis was lower than the combination over Cairo-Gale-Thebes, Ill., and on some of the classes the combinations were equalized. On traffic handled via East St. Louis, the Western Trunk Lines receive their local rates and the Southwestern Lines also receive their local rates. On October 7, 1913, joint through rates were established between

Minneapolis-St. Paul Territory and Arkansas local points on the basis of the reduced differentials. The differentials are shown in Block C, and it will be observed that the [fol. 855] through rates as established on October 7, 1913, were as much less than the combination over East St. Louis as the difference between the differentials between Minneapolis-St. Paul Territory and East St. Louis, Ill., and the local rates between Minneapolis-St. Paul Territory and East St. Louis, Ill. (Tr. 5147).

On October 6, 1913 the division of the local rate between Minneapolis and East St. Louis was 63 cents. After that the division was 61¢. Therefore the lines north of East St. Louis shrunk their local rate 2 cents. That is shown in Block E. On October 7, 1913, the Western Trunk Lines shrunk in their division comparing with October 6, 1913, 2 cents on first-class, 1½ cents on second, 1 cent on third; fourth and fifth, they received their local rates; a shrink of 2½ cents on Class A, and on the remaining classes they received their local rates. The Southwestern Lines on October 7, 1913, as compared with October 6, 1913, shrunk their revenue by—beginning with 21 cents on first-class, to as low as 3½ cents on Class E; that is shown in Block G (Tr. 5148-5149).

Block G shows the divisions received by the Western Trunk Lines, which, in some cases, were a trifle less than their local rates and in other cases where the divisions exceeded the local rates, the Western Trunk Lines were held down to their locals as maxima. Referring to Blocks B and C on sheet No. 7. There was a reduction of a through rate from $1.58 to $1.35, a reduction of 23 cents. That is the difference between the differential and the local rate. With the exception of the 2 cents, the differential accounts for the reduction in the through rate. Referring to Block F the divisions of the Minneapolis-St. Paul territory to East St. Louis in excess of the differentials is 21 cents. So, with the exception of 2 cents, that accounts for the reduction. The [fol. 856] reduction with the exception of the 2 cents came about in this way. On October 6, 1913 you had no joint through rates. The combination there was $1.58. Then on October 7, 1913 through rates were established on the basis of the differentials which were naturally less than the local rates. That was a voluntary act on the part of the carriers. It was caused by a Fourth Section because of the fact that

to and from Arkansas common points there were joint through rates based on the differentials, whereas to and from Arkansas local points, intermediate with the common points, there were no joint through rates. Consequently the lowest charge was the lowest combination. That brought about a higher through charge to an intermediate local point than to a common point beyond. That had to be cured by the substitution of the differentials. It is very difficult to say just exactly who made the reduction, who was responsible for it. I have quite a few letters in my file here to indicate that the Illinois Central was the first carrier that published through rates to and from Arkansas points. There was no Fourth Section violation on the Missouri Pacific. The Fourth Section violation was really at the other end (Tr. 5149-5150-5151-5152).

The Southwestern Lines received Milwaukee Territory revenue, and the lines north of East St. Louis received the remainder of the joint through rates, so that the discontinuance of the Milwaukee differentials over East St. Louis and the substitution of the reduced Chicago differentials, brought about a corresponding reduction in the differentials —Minneapolis-St. Paul territory over East St. Louis. On October 7, 1913, as indicated by Block D, the Southwestern Lines received as their divisions specifics as much less than their local rates as shown on each class in that Block, whereas on October 6, 1913, the Southwestern Lines received their full tariff rates. On the other hand, the West-[fol. 857] ern Trunk Lines on Oct. 7, 1913, received divisions equal to their local rates with the exception of the four classes on which the shrink below their locals ranged from 1 cent, 1½ cents, 2 cents, to 2½ cents. I have also shown in Block F, the amounts in cents per hundred pounds on each class that the Western Trunk Lines receive in division in excess of the differentials actually used in the construction of the joint through rates, and that this shrink was assumed entirely by the Southwestern Lines as indicated by Block G, so that on and after October 7, 1913, to but not including November 16, 1914, the Southwestern Lines continued to receive as much less than their local rates as reflected by Block G, and the Western Trunk Lines continued to receive practically their local rates, all of which indicates that the Southwestern Lines have been entirely too generous (Tr. 5152-5153).

Referring to page 7 of the Exhibit the 40 cents is not a local rate. That is a differential. The division was 21 cents higher than the differential and only 2 cents under the local rate in effect on October 6, 1913. The Southwestern Lines shrunk 21 cents out of their local. Block G shows the amounts on each class that the Southwestern Lines shrunk below their local rate on that date (Tr. 5153-5154).

On November 16, 1914, there was a further change in the divisions but not in the joint through rates, which resulted in the Western Trunk Lines receiving an increasing that was without any justification whatever. This increase was brought about by the fact that the Southwestern Lines received Milwaukee revenue on traffic to or from Minneapolis-St. Paul Territory. The proportional rates and the divisions between Milwaukee Territory and East St. Louis were increased 5 per cent. on November 16, 1914, and to that extent the Western Trunk Lines have received an increase in their proportions on traffic from Minneapolis-St. Paul Territory although the local rates between Minne- [fol. 858] apolis-St. Paul Territory and East St. Louis were not advance 5 per cent. The figures are shown specifically in Block I on each class. The total shrink by the Southwestern Lines below their local rates in division of the through rates from Minneapolis-St. Paul Territory as compared with October 6, 1913, is shown in Block J on each class, and all of this shrink is brought about by the three conditions previously mentioned, namely, First, the publication of joint through rates on differentials shown in Block C over the base point, East St. Louis, as compared with the local rates between Minneapolis-St. Paul Territory and East St. Louis shown in Block L; Second, the discontinuance of the Milwaukee differentials and the substitution of the reduced Chicago differentials, bringing about a corresponding decrease in the Minneapolis-St. Paul differentials over the base point, East St. Louis, and, Third, the fact that the Western Trunk Lines continued to receive approximately the same earnings in connection with the reduced rates as their local rates. This situation is further aggravated by the fact that on November 16, 1914, the divisions for the Western Trunk Lines were increased as indicated by Block H, and it will be observed that the proportions allowed to the Western Trunk Lines on and after November 16, 1914, exceeded their local rates as specifically shown in

Block J. All of these conditions were perpetuated after Federal control, and are reflected in the shrink by the Southwestern Lines currently in the division of these joint through rates below their local rates, as indicated by Block N, and that the shrink below the local rates received by the Southwestern Lines currently reflects the difference between the divisions currently received by the Western Trunk Lines and the differentials used in the construction of the joint through rates. On the other hand, it will be observed from Block L that the Western Trunk Lines re- [fol. 859] ceive on first class their local rate, and on the remaining classes, with the exception of Class A, the Western Trunk Lines' division exceeds the current local rate between Minneapolis-St. Paul Territory and East St. Louis, whereas on Class A, the division received by the Western Trunk Lines is 3 cents per 100 pounds less than their local rate. On October 6, 1913, the Southwestern Lines received their local rates as did the Western Trunk Lines, so that currently the Western Trunk Lines are receiving their local rates or in excess thereof with but one exception, and the Southwestern Lines are receiving as much less than their local rates as reflected by Block N, all of which indicates that the Southwestern Lines have been entirely too generous in the past. There is every justification, in my judgment, that the Southwestern Lines should receive on Minneapolis-St. Paul Territory traffic the same earnings as on Chicago traffic excluding the 5 per cent. advance, because that advance was not reflected in the joint through rates (Tr. 5154-5155-5156.)

Traffic moving on through commodity rates on which there are no corresponding commodity specifics between Milwaukee Territory and East St. Louis, Ill., in Illinois Freight Association Division Sheet No. 5, the Western Trunk Lines receive the same earnings as in division of a through class rate, forcing the Southwestern Lines to make the same shrink in cents per hundred pounds in division of a through commodity rate as they would shrink in division of a higher through class rate. Sheet No. 8 of this Exhibit covers rates and divisions between Minneapolis-St. Paul Territory and Arkadelphia, Ark., via East St. Louis, Ill. This sheet portrays a similar situation as on Bald Knob, Ark. traffic. All that I have said with respect to the divisions between Minneapolis-St. Paul Territory and Bald

Knob in applicable to Arkadelphia, Ark., or any other local point in Arkansas (Tr. 5156-5157).

Sheet No. 9 of this exhibit covers the situation on traffic [fol. 860] between Chicago Territory and Bald Knob, Ark., a local point on the Missouri Pacific Railroad in northern Arkansas via Cairo-Gale-Thebes, Ill. Prior to October 7, 1913, there were no joint through rates between Chicago Territory and local points in Arkansas. The lowest combination of local or proportional rates over East St. Louis or Cairo-Gale-Thebes, Ill. obtained. I have shown previously that the lowest combination to and from Chicago Territory was made over Cairo-Gale-Thebes, Ill. prior to October 7, 1913. Block "A" of this exhibit shows the combinations showing the local rates between Chicago Territory and Cairo-Gale-Thebes, and the local rates between the latter points and Bald Knob, Ark. Naturally each line receives its local or proportional rate whichever was used in the construction of the joint through charge (Tr. 5157).

On October 7, 1913, joint through rates were established between Chicago Territory and Arkansas local points on differential basis over the base point. East St. Louis, Ill. In Block "B" the differentials are shown as well as the through rates, and in Block "C" I have shown the shrink between the Ohio River combination and the joint through rates. In division of the rates established on the differential basis over the base point East St. Louis on October 7, 1913, lines between Chicago Territory and Cairo-Gale-Thebes, Ill., continued to receive their full proportional rates, forcing the entire shrink on the Southwestern Lines between the combination over Cairo and the joint through rates established differentially over East St. Louis. The shrink on each class is reflected in Block "C." all of which was assumed by the Southwestern Lines. This condtion continued to November 16, 1914, on which date the proportional rates between Chicago Territory and Cairo-Gale-Thebes, Ill., were advanced 5 per cent. and the divisions for the Western Trunk Lines correspondingly, as reflected by [fol. 861] reference to E. B. Boyd's Tariff No. 506-D, I. C. C. No. A-523, this tariff being used at that time as a division sheet. This resulted in a further shrink on the part of the Southwestern Lines on each class as reflected by the specific figures indicated in Block "E." The total shrink assumed by the Southwestern Lines reflected by the reduction in the

through rates and the increase in the proportions to the Western Trunk Lines are reflected in the specifics on each class shown in Block "F" (Tr. 5157-5158).

I have next shown the situation as it exists currently, by indicating in Block "I" the joint through rates and the differentials observed in their construction over the base point, East St. Louis. It will be observed that the joint through rates are considerably less than the lowest combination which would be over Cairo-Gale-Thebes, notwithstanding which in division of the current through rates established on the differential basis, the lines between Chicago Territory and Cairo-Gale-Thebes received specifics published in Illinois Freight Association Division Sheet No. 5 that are almost equal to their full proportional rates, the latter being reflected in Block "J." Block "L" indicates the shrink assumed by the Western Trunk Lines in their divisions as compared with their full proportional rates, which range from ½ cent per 100 pounds on two classes, 1 cent per 100 pounds on five classes, 2 cents per 100 pounds on one class. On the contrary, the Southwestern Lines are assuming a shrink in their division below their local rates as reflected on each class indicated by Block "M." If the Western Trunk Lines are entitled to practically their full proportional rates in division of joint through rates constructed on a differential basis that is less than their division, then the Southwestern Lines ought to be entitled to the same consideration. As it is now, the Southwestern Lines are assuming practically the entire shrink in the through rates currently in effect and the Cairo combina-
[fol. 862] tion. This makes an unequal distribution of the shrink necessary for the carriers to assume. Here again on traffic moving on through commodity rates the Western Trunk Lines receive class specifics except where specific commodity divisions have been published in Illinois Freight Association Division Sheet No. 5. This forces the Southwestern Lines to assume the same shrink below their local commodity rates in division of such joint through rates as in connection with a through class rate (Tr. 5158-5159-5160).

Referring to Block "L" sheet 8 the figures indicate that on each class the Western Trunk Lines were receiving the same or in excess of their local rates to East St. Louis, ex-

cept on Class A on which they received 3 cents less than our local rate. Block "M" indicates that the Southwestern Lines are shrinking their first-class rate 35 cents and taking 5th class, for example, the Southwestern Lines shrink the local rate 9½ cents (Tr. 5160-5161).

Sheet No. 10 covers divisions between Chicago Territory and Arkadelphia, Ark., via Cairo-Gale-Thebes, Ill. This is also a local point on the Missouri Pacific. The situation is practically identical with that described in connection with Sheet No. 9 except that the shrink made by the Southwestern Lines on October 7, 1913, as shown by Block "C" and later on November 16, 1914, as shown by Block "F" is greater than on traffic to or from Bald Knob, Ark., and the situation is similar at the present time. On the other hand, the Western Trunk Lines are receiving approximately their full proportional rates as indicated by Block "L." Sheet No. 11 covers divisions between Peoria, Ill., and Bald Knob, Ark. via Cairo-Gale-Thebes, Ill. The heading at the top of this sheet should be corrected to read from Peoria, [fol. 863] Ill., instead of Peoria Territory, as Peoria is in Chicago Territory, there being no Peoria Territory. The situation with respect to divisions on Peoria traffic is similar to what I have already described in connection with Chicago Territory, Sheet No. 9, so that all that I have said with respect to the divisions between Chicago and Bald Knob, except that the lines between Peoria and Cairo-Gale-Thebes, Ill. receive the same earnings as the lines between Chicago and Cairo-Gale-Thebes, Ill., and what is true of Peoria is also true of other central and southern Illinois points, such as Springfield, Bloomington, Decatur, Danville and intermediate points, and the Southwestern Lines are making the same shrink below their local rates as in division of the same joint through rates from Chicago. This is also true of Sheet No. 12, covering divisions between Peoria and Arkadelphia, which is also a local point on the Missouri Pacific Railroad. This sheet should also be corrected in the heading to read Peoria, Ill. instead of Peoria Territory, and what is true of Bald Knob and Arkadelphia is true of all other Arkansas local points on all lines (Tr. 5161-5162).

Sheet No. 13 covers divisions between Milwaukee Territory and Bald Knob, Ark., via Cairo-Gale-Thebes, Ill. Prior to October 7, 1913, there were no joint through rates,

and the lowest combination obtained by the use of local or proportional rates between Milwaukee Territory and Cairo-Gale-Thebes, and the local rates beyond. The through charge on that basis is shown in Block "B." It will be observed that the through charge from Milwaukee Territory exceeded the through charge as shown in Block "A" to the extent of the 6 cents scale indicated in Block "B." In Block "C" I have shown the divisions which reflect for the [fol. 864] Western Trunk Lines their full proportional rates used in the construction of the joint through charge, and the Southwestern Lines also received their full local rates. On October 7, 1913, by reason of joint through rates being established between Milwaukee Territory and Arkansas local points by use of the Chicago differentials over the base point, East St. Louis, Ill., the joint through rates so established were as much less than the lowest combination previously in effect as reflected by the specifics on each class shown in Block "F." In division of these joint through rates, the Western Trunk Lines between Milwaukee Territory and Cairo-Gale-Thebes, Ill., continued to receive their full proportional rates, so that the Southwestern Lines assumed the entire reduction between the combination over Cairo-Gale-Thebes and the joint through rates established on the differential basis as shown in Block "F." This condition continued to November 16, 1914, on which date the proportional rates between Milwaukee Territory and Cairo-Gale-Thebes were advanced 5 per cent and the Western Trunk Line- in the division of the joint through rates which did not reflect the 5 per cent advance in the proportional rates between Milwaukee Territory and Cairo-Gale-Thebes received a 5 per cent advance in their divisions, which was also assumed by the Southwestern Lines as specifically shown in Block "H" on each class. The total shrink assumed by the Southwestern Lines by reason of the establishment of joint through rates on the differential basis referred to as compared with the combination over Cairo-Gale-Thebes, and the advance of 5 per cent in the proportions to the Western Trunk Lines resulted in a total shrink on November 16, 1914, on the part of the Southwestern Lines as specifically shown on each class in Block "I," but the Western Trunk Lines continued to receive their full proportional rates and assumed no part of any [fol. 865] shrink. That condition continued to Federal con-

trol, and was perpetuated after Federal control, and in the current divisions. I have next shown what the situation is currently by indicating what the current combinations would be over Cairo-Gale-Thebes, Ill., in Block "K" as compared with the current combinations shown in Block "J" between Chicago Territory and Bald Knob, Ark., indicating that Milwaukee continues to maintain a substantial spread in their proportional rates over the proportional rates from or to Chicago; however, the joint through rates between Milwaukee Territory and Arkansas local points are the same as between the Chicago Territory and Arkansas Local points by reason of the application of the Chicago differentials to and from Milwaukee Territory. Block "F" shows the current through rates, and now constructed between Milwaukee territory and Bald Knob, Ark., and between Chicago Territory and Bald Knob, Ark. Block "M" shows the full current proportional rates between Milwaukee Territory and Cairo-Gale-Thebes, Ill., and Block "N" shows the divisions received by the Western Trunk Lines currently, which are approximately their full proportional rates, the shrink below their full proportional rates on each class being reflected in Block "O," which are almost nil. On the other hand, the Southwestern Lines make a substantial shrink in their divisions as compared with their local rates. This is reflected by Block "P." All of this points out that with the establishment of joint through rates on October 7, 1913, between Milwaukee Territory and Arkansas local points, on the basis of the Chicago differentials, that the Southwestern Lines should have received Chicago revenue instead of permitting the Western Trunk Lines to continue receiving the same divisions in connection with the through rates established on the differential basis as they received before joint through rates were [fol. 866] established, in other words, their full proportional rates. (Tr. 5162-5163-5164-5165).

I have previously dwelt upon the division of through commodity rates on which the Western Trunk Lines received their class specifics in the absence of specific commodity divisions forcing the Southwestern Lines to assume the same shrink in the division of through commodity rates as in division of higher through class rates. Sheet No. 14 covers rates and divisions between Milwaukee Territory and Arkadelphia, Ark., via Cairo-Gale-Thebes, Ill.,

which is also a local point on the Missouri Pacific. The situation is somewhat similar as explained in connection with Sheet No. 13, except that the Southwestern Lines are assuming a greater shrink below their local rates as on Bald Knob traffic. Sheet No. 15 covers rates and divisions between Minneapolis-St. Paul Territory and Bald Knob, Ark., via Cairo-Gale-Thebes, Ill. Prior to October 7, 1913, no joint through rates were in effect between Minneapolis-St. Paul Territory and local points in Arkansas, and it will be observed from Blocks "A" and "B" that the lowest combination was over East St. Louis, and that in some cases the East St. Louis and the Cairo-Gale-Thebes combinations were the same. The local rates between Minneapolis-St. Paul Territory and East St. Louis, also Cairo-Gale-Thebes, Ill., was published in W. H. Hosmer's Tariff No. 5-F, I. C. C. No. A-422. It follows that when the joint through charge was lower on basis of the East St. Louis combination than via Cairo-Gale-Thebes, the traffic would necessarily move through East St. Louis, except where the Cairo and the East St. Louis combinations were the same, in which event if the traffic was interchanged at East St. Louis the lines between Minneapolis-St. Paul Territory and East St. Louis would receive a division of the local rates to or from Cairo-Gale-Thebes, Ill. (Tr. 5165-5166).

[fol. 867] I have next shown the joint through rates established on October 7, 1913, on the reduced Minneapolis-St. Paul Territory differential over East St. Louis, and the divisions received by the Western Trunk Lines between Minneapolis-St. Paul Territory and Gale-Cairo-Thebes, Ill., which are based on allowing the Southwestern Lines the same revenue as on similar traffic from Milwaukee Territory. It will be observed from Blocks "E" and "F" that the Western Trunk Lines have assumed a substantial shrink in their divisions on some of the classes, and on two of the classes received their full local rates, and that the Southwestern Lines also made a substantial shrink, in fact a greater shrink taking into consideration all of the classes as compared with the shrink by the Western Trunk Lines (Tr. 5166-5167).

I have shown in Block "G" the differentials that obtained between Minneapolis-St. Paul Territory and Arkansas Common Points on October 1, 1896, as compared with June

1, 1898, and the reductions in the differentials on each class. When the joint through rates on October 7, 1913, were established they were on the basis of the reduced differentials shown in Block "G" all of which was brought about by the discontinuance of the Milwaukee differentials and the substitution of Chicago differentials to and from Milwaukee Territory, which made a corresponding reduction in the differentials to and from Minneapolis-St. Paul Territory. This resulted in the Southwestern Lines assuming the shrink referred to in the differentials because when the joint through rates were established between Minneapolis-St. Paul Territory and local Arkansas points, they were on the basis of the reduced differentials (Tr. 5167).

[fol. 868] On November 16, 1914, as shown by Block "H", the same joint through rates were in effect as shown in Block "C" on October 7, 1913, however, because the Southwestern Lines received Milwaukee revenue on Minneapolis-St. Paul Territory traffic, and because there was an advance of 5 per cent in the proportional rates between Milwaukee Territory and Cairo-Gale-Thebes which the Southwestern Lines accorded the Western Trunk Lines on Milwaukee Territory traffic, naturally the same advance in cents per 100 pounds that was made to the Western Trunk Lines on Milwaukee Territory automatically were made in the division of through rates from Minneapolis-St. Paul Territory; however there was no advance in the local rates between Minneapolis-St. Paul Territory and Cairo-Gale-Thebes or East St. Louis, Ill., so that the Southwestern Lines were not warranted in making the latter advance in the divisions to the Western Trunk Lines; further, there was no corresponding advance in the through rates, so that the Southwestern Lines assumed a further shrink on each class as indicated by Block "I" (Tr. 5168).

I have next shown the situation currently by indicating the current through rates and the differentials observed in their construction over the base point East St. Louis, Ill., and in Block "K" the divisions received by the Western Trunk Lines as compared with the Southwestern Lines, indicating that the divisions north of Cairo exceed the differentials North of East St. Louis almost 50 per cent, and further, that the divisions currently received by the Western Trunk Lines as indicated in Block "K" exceed the

local rates between Minneapolis-St. Paul Territory and Cairo-Gale-Thebes, Ill., on four of the classes, on one of the classes they receive their local rates, and on five of the classes they receive less than their local rates by the specifics shown. On the other hand, the divisions received by [fol. 869] the Southwestern Lines in all cases are less than their local rates by substantial amounts as indicated by Block "N". On Minneapolis-St. Paul Territory traffic to and from Arkansas local points in my judgment, the Southwestern Lines on and after October 7, 1913, should have received as their division the same revenue as on the same traffic to or from Chicago Territory, and with no increase to the Western Trunk Lines, because of the 5 per cent advance in their rates made on November 16, 1914, which did not apply to or from Minneapolis-St. Paul Territory (Tr. 5168-9).

Traffic moving on through commodity rates on which there are no corresponding commodity specifics in Illinois Freight Association Division Sheet No. 5 are subject to the lines north receiving class specifics. I have dwelt on this feature several times, and I do not believe it necessary to further dwell on that point. Sheet No. 16 covers rates and divisions between Minneapolis-St. Paul Territory and Arkadelphia, Ark. This portrays the same basic principle as outlined in connection with Sheet No. 15, except that currently the Southwestern Lines are making a greater shrink below their local rates as on Bald Knob traffic (Tr. 5169).

Our Local Agent says that on traffic from Minneapolis-St. Paul territory handled on local transfers, the local rates are held as maxima, but the Accounting Department has not time to watch those things on through billed traffic. The local rates are supposed to be held as maxima, but that isn't done on through billed traffic. That is due to the fact that the Auditing Departments generally have too much work to do. While I believe and as I think most of the lines do, that no lines should receive more than the local rate in the division of the joint through rate, why it is an awful cumbersome provision to insert in division sheets, and the executives of all the lines are trying to simplify [fol. 870] divisions and when a clause of that kind is placed in the division sheet, it has the opposite effect every time. Now, where divisions do not exceed the local rates, why

then there's something the matter with divisions, and they ought to be changed so as not to bring about that condition as a whole (Tr. 5170-5171).

[fol. 871] My Exhibit No. A-144, Sheet No. 1, covers divisions between Dubuque and Clinton, Iowa, located in Chicago Territory west of the Mississippi River and Little Rock, Arkansas, via East St. Louis, Illinois. The same joint through rates are currently in effect between Chicago Territory west of the Mississippi River and Arkansas common and local points as between Chicago Territory east of the Mississippi River and Arkansas common and local points, the through rates being made by the use of the same differentials over the base point, East St. Louis as reflected by Block "A". In the division of all such point through rates between West bank Mississippi River points in Iowa, located in Chicago territory, the lines between such west bank Mississippi River points and East St. Louis receive specifics published in Illinois Freight Association Division Sheet No. 5 as reflected in Block "B" or in other words, the same specifics as published in the same division sheet as between Chicago Territory east of the Mississippi River and East St. Louis. I have also shown the full current proportional rates between Dubuque and Clinton, Iowa and East St. Louis in Block "C", and the local rates between East St. Louis and Little Rock, Arkansas. It will be noted from Block "D" that the divisions received by the Western Trunk Lines are practically their full current proportional rates, and that the divisions received by the Southwestern Lines reflect substantial reductions below their current local rates, in fact it can be said that the Western Trunk Lines are making practically no shrink in their divisions below their proportional rates, and that the Southwestern Lines are assuming practically the entire shrink between the full combination and the current through rates made by use of differentials over the base point, East [fol. 872] St. Louis. The shrink by the Southwestern Lines is shown specifically on each class in Block "F", and it will be observed that the shrink by the Southwestern Lines reflects the spread between the divisions received by the Western Trunk Lines and the differentials used in the construction of the joint through rates, all of which goes back to the point that the Western Trunk Lines are mak-

ing practically no shrink in their divisions below their full proportional rates. It will be observed that the distances between Dubuque and Clinton, Iowa, and East St. Louis, Illinois, are on the average no greater than the distances between Chicago Territory in northern Illinois and East St. Louis. There can be no justification in the Western Trunk Lines receiving divisions almost the equal of their proportional rates, and the Southwestern Lines assuming practically the entire shrink in their divisions between the combination and the differentials observed in the construction of the through rates (Tr. 5172-5173-5174).

Sheet No. 2 of this exhibit shows the rates and divisions between Dubuque and Clinton, Iowa, located in Chicago Territory west of the Mississippi River and Little Rock, Arkansas, via Cairo-Gale-Thebes, Illinois. I have shown the through rates and the divisions as currently in effect, and what I have said in connection with sheet 1 via East St. Louis is substantially true of Sheet No. 2. Sheet No. 3 of this exhibit covers rates and divisions between Dubuque and Clinton, Iowa, located in Chicago Territory west of the Mississippi River and Little Rock, Arkansas, via Kansas City, Missouri. It will be observed in Block "B" that the Western Trunk Lines receive 23 percent north of Kansas City, and the Southwestern Lines south of Kansas City 77 percent. The basis for these divisions originally was to allow the Western Trunk Lines the same earnings to Kansas City as they receive via East St. Louis, Illinois, in divi-
[fol. 873] sion of the proportional rates between Chicago Territory and Cairo-Gale-Thebes via East St. Louis, in other words, the haul of the Missouri Pacific Railroad from Kansas City, Missouri, to Little Rock, Arkansas, by 160 miles which slightly exceeds the distance between East St. Louis and Cairo, Illinois, which further brings out the point that in division of through rates between Chicago Territory and points in Arkansas, the Western Trunk Lines between Chicago territory and East St. Louis at no time should have received in excess of 65 percent of the proportional rates or specifics between Chicago Territory and Cairo, Gale or Thebes (Tr. 5174-5175).

It will be observed on the basis of 23 percent currently for the Western Trunk Lines that the divisions received via Kansas City exceed the differentials used in the con-

struction of the through rates over the base point, East St. Louis by the amount shown in Block "E", and I have shown the shrink in cents per 100 pounds on each class of the Southwestern Lines below their current local rates from or to Kansas City, the latter being shown in Block "F". East St. Louis, Illinois, is the logical gateway for the movement of traffic between west Bank Mississippi River points and points in Arkansas, and while the hauls of the Western Trunk Lines are greater to Kansas City as compared with East St. Louis, the hauls of the Southwestern Lines are also greater as pointed out in the case of Little Rock, the distance over the Missouri Pacific from Kansas City is 160 miles in excess of the distance from East St. Louis, so that if the Kansas City Gateway is to remain open, it follows no better basis could be arranged than an approximate equalization of the East St. Louis divisions via Kansas City, so that there is ample justification for the basis of the present divisions via Kansas City (Tr. 5175-5176).

(The statement described by the witness was thereupon received in evidence as Exhibit A-144.)

[fol. 874] My next exhibit No. A-145 comprises three sheets, and on Sheet No. 1 the rates and divisions are shown between Cedar Rapids, Iowa, located in Chicago Territory west of the Mississippi River and Little Rock, Arkansas via East St. Louis. Cedar Rapids, Iowa, is a central point located in Chicago territory west of the Mississippi River about equi-distance between the western and eastern boundaries of that territory, and for that reason this point was selected as representative of that territory. I have shown in Block "A" the joint through rates as currently in effect, and the differentials used in their construction which are the same as to or from Chicago Territory east of the Mississippi River. In Block "B" I have shown the divisions north of St. Louis, Missouri, or East St. Louis, Illinois received by the Western Trunk Lines, or 32 per cent, and the specifics on each class, and the same information has been shown for the Southwestern Lines south of St. Louis, Missouri, or East St. Louis, Illinois. In Block "C" I have shown the divisions that the Western Trunk Lines are receiving currently between Chicago Territory east of the Mississippi River, also west bank Mis-

sissippi River points in Chicago Territory and East St. Louis and in Block "D" the difference between the divisions received by the Western Trunk Lines and the proportional rates between Chicago Territory east of the Mississippi River, also west bank Mississippi River points and East St. Louis, Illinois, which indicate that in most cases the Western Trunk Lines between Chicago Territory west of the Mississippi River receive in excess of the proportional rates applying between Chicago Territory east of the Mississippi River also west bank Mississippi River points and East St. Louis, although the joint through rates are made by the use of the same differentials. I have [fol. 875] shown in Block "E" the excess in the divisions received by the Western Trunk Lines over the differentials used in the construction of the joint through rates over the base point, East St. Louis, Illinois. In Block "F" I have shown the current divisions received by the lines between Chicago Territory east of the Mississippi River also west bank Mississippi River points and East St. Louis, and in Block "G" the amounts in cents per 100 pounds on each class that the Western Trunk Lines receive in division of the joint through rates between Chicago Territory west of the Mississippi River, and Chicago Territory east of the Mississippi River and East St. Louis, Illinois. In Block "H" I have shown the shrink in the earnings of the Southwestern Lines in the divisions they receive as compared with their local rates. This exhibit clearly indicates that from and to the Western Trunk Line Territory involved, the Chicago Territory rates are being applied, however, in division, the Western Trunk Lines north of East St. Louis are receiving in excess of Chicago Territory division, that is, Chicago Territory east of the Mississppi River including west bank Mississippi River points. The distance from Cedar Rapids, Iowa, a centrally located point in Chicago Territory west of the Mississippi River, is about equal to the distance from representative points in northern Illinois in Chicago Territory, nothwithstanding which the Western Trunk Lines are receiving greater divisions currently between Chicago Territory west of the Mississippi River than they receive to and from Chicago Territory east of the Mississippi River, and while there are points located in Chicago territory west of the Mississippi River involving

[fol. 876] greater hauls than between Cedar Rapids and East St. Louis, so that the Southwestern Lines apparently have based the divisions on the assumption that the hauls of the Western Trunk Lines between Chicago Territory west of the Mississippi River are greater than the hauls between points in Chicago Territory east of the Mississippi River and East St. Louis, and this consideration is reflected in the spread in the divisions that the Western Trunk Lines receive currently as reflected in Block "G" over the divisions received between the same territory east of the Mississippi River and East St. Louis (Tr. 5176-5177-5178).

Sheet No. 2 of this exhibit shows the rates and divisions between Cedar Rapids, Iowa, located in Chicago Territory west of the Mississippi River and Little Rock, Arkansas, via Cairo-Gale-Thebes, Illinois. I have shown the situation currently as to rates and divisions. In Block "B" I have shown the divisions received by the Western Trunk Lines which are 36 percent, and the divisions received by the Southwestern Lines, namely 64 percent, and the divisions in cents per 100 pounds received by the Western Trunk Lines and the Southwestern Lines on each class. Block "C" I have shown for comparative purposes the full current proportional rates between Chicago Territory east of the Mississippi River, also west bank Mississippi River points and Cairo-Gale-Thebes, Illinois, and the local rates between the latter points and Little Rock. It will be observed that the divisions received currently by the Western Trunk Lines to and from Chicago Territory east of the Mississippi River and Cairo-Gale-Thebes, Illinois. In Block "E" I have shown the amounts in cents per 100 pounds on each class the divisions received by the Western Trunk Lines from the territory west of the Mississippi River over the divisions received from the territory east [fol. 877] of the Mississippi River, the joint through rates being on the same basis. This shows clearly that the Southwestern Lines are making substantial reductions in their earnings below their local rates. The distance between Cedar Rapids, Iowa, a point centrally located in Chicago Territory west of the Mississippi River and Cairo, Illinois, on the average is about the equal of the distance between northern Illinois points in Chicago Territory and Cairo, Illinois, also indicated on this exhibit.

Sheet No. 3 of this exhibit covers the divisions via Kansas City, Missouri. It shows that the Western Trunk Lines are receiving 23 per cent north of Kansas City, and the Southwestern Lines 77 percent south of Kansas City. This sheet portrays the same situation as explained in connection with my previous exhibit, Sheet No. 3, covering divisions between Dubuque and Clinton, Iowa, located in the same territory and Little Rock, Arkansas, via Kansas City, Missouri, except that the distance from Cedar Rapids, Iowa, to Kansas City, Missouri, is less than the distance between Dubuque or Clinton, Iowa, and Kansas City, Missouri. I have also shown the distance over the Missouri Pacific Railroad from Kansas City, Missouri, to Little Rock, indicating that the haul of the Missouri Pacific from Kansas City is 160 miles in excess of the haul from St. Louis (Tr. 5179-5180).

There are no divisions in effect between Chicago Territory west of the Mississippi River and Arkansas local points via East St. Louis, Illinois, St. Louis, Missouri, Cairo-Gale-Thebes, Illinois, or Kansas City, Missouri, however, to or from Arkansas common points the Western Trunk Lines north of any of the gateways mentioned receive Little Rock avenue. This feature will be covered later in my testimony (Tr. 5180-5181).

[fol. 878] (The Statement described by the Witness was thereupon received in evidence as Exhibit A-145.)

[fol. 879] My exhibit No. A-146 comprises three sheets, and applies between points in Davenport Territory as shown on Exhibit No. A-138, which is a map of that territory and Little Rock, Arkansas. Sheet No. 1 of this exhibit shows the rates and the divisions via East St. Louis. It will be observed from Block "A" that the rates between points in Davenport Territory and Little Rock and other Arkansas common and local points are made on differentials lower than the differentials applying between Chicago Territory and Arkansas points over the base point, East St. Louis. In Block "B" I have shown the divisions received by the lines north of St. Louis, Missouri or East St. Louis, Illinois, on each class, and the divisions received by the Southwestern Lines. The percentages through oversight have not been shown, but the divisions shown in Block

"B" are based on the lines north of St. Louis, Missouri, or East St. Louis, Illinois, receiving 29 percent and the lines south 71 percent, which is the agreed divisions on Little Rock, Arkansas traffic. The divisions of 29 percent received by the Western Trunk Lines was arranged with the idea of according the Southwestern Lines the same revenue on the average as they receive between Chicago Territory and Little Rock, Arkansas, via East St. Louis, Illinois. It will be observed that the joint through rates between Davenport Territory and Arkansas Points were constructed on differentials over the base point, East St. Louis, Illinois. The present percentages referred to do not bring about this result when applied to the current rates, evidently because of the many readjustments that have taken place in the rates between East St. Louis and St. Louis and Arkansas points, so that currently the Southwestern Lines are shrinking below their local rates amounts considerably in excess [fol. 880] of the shrink on Chicago traffic east of the Mississippi River which does not seem to be justified from the standpoint of distances as compared with points in Chicago Territory in Illinois. Some modification should be made in these percentages so as to more nearly accord the Southwestern Lines the same revenue on traffic between Davenport Territory and points in Arkansas as the Southwestern Lines receive currently, or as may be modified by this proceeding between Chicago territory east of the Mississippi River and points in Arkansas (Tr. 5181-5182).

Sheet No. 2 of this exhibit outlines the rates and the divisions between points in Davenport Territory and Little Rock, Arkansas, via Cairo-Gale-Thebes, Illinois. In Block "B" I have shown the divisions received by the Western Trunk Lines and by the Southwestern Lines in cents per 100 pounds on each class, but inadvertently the percentages were not shown. The percentages accord the Western Trunk Lines 33 percent, and the Southwestern Lines 67 percent, and the divisions as worked out in cents per 100 pounds are arrived at by the use of these percentages. These percentages were arranged so as to accord the Southwestern Lines the same revenue in cents per 100 pounds on the average as they receive on similar traffic between Chicago Territory east of the Mississippi River and Little Rock,

Arkansas, via Cairo-Gale-Thebes, Illinois. Because of the many readjustments in the rates between East St. Louis, also Cairo-Gale-Thebes, Illinois, and Arkansas points, the percentages referred to accord the Southwestern Lines considerably less between Davenport Territory and Little Rock, Arkansas, than they receive between Chicago Territory east of the Mississippi River and Little Rock, Arkansas. This is reflected more clearly in Block "F", which [fol. 881] indicates the shrink by the Southwestern Lines between the divisions they currently receive and the local rates south of Cairo-Gale-Thebes, Illinois, which on every class exceed the shrink that the Southwestern Lines currently assume below the local rates between Chicago Territory and Little Rock, Arkansas. The through rates between Davenport Territory and Arkansas points are made on differentials that are somewhat lower than the differentials to and from Chicago Territory (Tr. 5182-5183).

Sheet No. 3 covers the rates and divisions between Davenport Territory and Little Rock, Arkansas, via Kansas City, Missouri. In Block "B" I have shown the divisions received by the Western Trunk Lines and by the Southwestern Lines in cents per 100 pounds on each class. Through oversight the percentages were not shown. The percentages are north of Kansas City 21 percent south 79 percent. The basis for the division of 21 percent north of Kansas City was to accord the Western Trunk Lines via Kansas City, Missouri, the same revenue as they receive via East St. Louis, Illinois, in division of the proportional rates, or the specifics applicable between Chicago Territory and Cairo-Gale-Thebes, Illinois. This basis was arranged because the hauls of the Southwestern Lines from Kansas City, Missouri, exceed the haul from East St. Louis by 160 miles, that being the distance over the Missouri Pacific Railroad. East St. Louis, Illinois, is the logical gateway, and forms a shorter through route as compared with the Kansas City gateway, so that there is ample justification for equalizing the East St. Louis divisions via Kansas City because the hauls of the Western Trunk Lines between Davenport Territory and Kansas City are generally greater than the hauls between points in Davenport Territory and

East St. Louis, and what is said of the Western Trunk Lines with respect to greater distances via Kansas City [fol. 882] as compared with East St. Louis is also true of the Southwestern Lines, so that both groups of lines because of their longer hauls through the Kansas City gateway decided to equalize the East St. Louis divisions (Tr. 5184).

There are no divisions between points in Davenport Territory and local points in Arkansas. To and from common points in Arkansas via any of the gateways mentioned in connection with this exhibit the Western Trunk Lines receive Little Rock revenue, so that it was necessary that divisions should be fixed to cover all points in Arkansas, regarding which I will have something to say later on (Tr. 5184-5185).

(The statement described by the Witness was thereupon received in evidence as Exhibit A-146.)

[fol. 883] My Exhibit No. A-147 covers rates and division between points in Des Moines Territory and Little Rock, Arkansas. It will be observed from Exhibit No. A-138 that Des Moines Territory is immediately west of Davenport. The joint through rates between points in Des Moines Territory and Arkansas points are made on differentials over the base point, East St. Louis, Illinois. It will be observed the differentials used in construction of the joint through rates between Des Moines Territory and Arkansas points exceed the differentials between Chicago Territory and points in Arkansas, and that the differentials, Des Moines Territory over East St. Louis also exceed the Davenport Territory differentials over East St. Louis. This is evidently because of the greater distance between points in Des Moines territory and East St. Louis as compared with Chicago Territory east of the Mississippi River and East St. Louis. It will be observed from Block "C" that the Southwestern Lines receive the same revenue between points in Des Moines Territory as they receive on traffic between points in Davenport Territory and points in Arkansas, and that the Western Trunk Lines receive the spread in the differentials, Des Moines Territory over Davenport Territory earnings. It will be observed, how-

ever, from Block "G" that the divisions received by the Western Trunk Lines between Des Moines Territory and East St. Louis, Illinois, exceed the divisions received by the Western Trunk Lines between Chicago Territory and East St. Louis by the amounts shown on each class in that block, and that the spread in the divisions received by the Western Trunk Lines, Des Moines Territory over Chicago Territory exceed by substantial amounts on each class the spread in the differentials, Des Moines Territory over Chicago Territory, as indicated by Block "D" (Tr. 5185-5186).

[fol. 884] Block "H" shows the shrink in the divisions by the Southwestern Lines below their current local rates which are are in excess of the shrink that the Southwestern Lines are making currently on Chicago Territory traffic. I have shown the distance from Des Moines, Iowa, to St. Louis, Missouri, on this sheet. The distance from Des Moines, Iowa, to St. Louis, Missouri, exceeds the distance between Chicago, Illinois, and East St. Louis, Illinois, although no greater than the distance between Illinois points in Chicago Territory shown and East St. Louis; however, the joint through rates are made by the use of higher differentials over the base point, East St. Louis, than between Chicago Territory and East St. Louis, and it is assumed the reason for the higher differentials is because of the greater generally between points in Des Moines Territory and East St. Louis as compared with Chicago Territory and East St. Louis. Some revision should be made in these percentages so as to more nearly allow the Southwestern Lines the same revenue on traffic between Des Moines Territory and Arkansas points as they receive or as may be determined in this proceedings between Chicago Territory and East St. Louis and Arkansas points, because there is no reason why the Southwestern Lines should assume a greater shrink below their local rates on Des Moines Territory Traffic than they shrink on Chicago Territory traffic (Tr. 5186-5187).

Sheet No. 2 of this exhibit covers the divisions via Cairo-Gale-Thebes, Illinois. The Southwestern Lines as indicated by Block "C" receive the same revenue as to or from Davenport Territory. Here again it will be observed that

while the differentials used in constructing joint through rates to and from Des Moines Territory are in excess of the Chicago differentials also the Davenport differentials, [fol. 885] the divisions, however, received by the Western Trunk Lines between Chicago Territory and East St. Louis in amounts on each class considerably in excess of the spread in the differentials Des Moines Territory over Chicago Territory as reflected by a comparison shown in Block "E" as compared with Block "D". In other words, the Southwestern Lines should be accorded the same divisions on Traffic to or from Des Moines Territory as they receive on Traffic to or from Chicago Territory (Tr. 5187-5188).

Sheet No. 3 shows the divisions via Kansas City, Missouri. It will be observed from Block "C" that in arranging divisions between Des Moines Territory and Little Rock, Arkansas, via Kansas City, Missouri, that we have a reversal of the situation, in that the lines north of Kansas City receive 23 percent of the Davenport Territory rates, or in other words, Davenport revenue instead of the lines south of Kansas City, Missouri. This is brought about by the fact that the rates from Des Moines Territory are based on differentials over the base point, East St. Louis and are in excess of the Davenport Territory differentials as brought out in Blocks "A" and "B" which as previously stated was because of the greater hauls of the Western Trunk Lines between Des Moines Territory and East St. Louis. Via Kansas City, Missouri, which is the junction point, I am now discussing the divisions reflect a reversal of the situation as compared with the East St. Louis gateway, in that the hauls of the Western Trunk Lines between points in Des Moines territory and Kansas City are generally less than the hauls between points in Davenport Territory and Kansas City, and because the hauls of the Southwestern Lines from Kansas City to Little Rock are greater to the extent of 160 miles than the distance between East St. Louis and Little Rock, the Southwestern Lines have [fol. 886] been accorded the benefit of the increase in the differentials, Des Moines Territory over Davenport Territory because of this greater service and the shorter service of the Western Trunk Lines from Des

Moines Territory to Kansas City as compared with Davenport Territory to Kansas City. Notwithstanding this situation the Southwestern Lines continue to receive divisions south of Kansas City that are substantially less than their local rates (Tr. 5188-5189).

No divisions are in effect between points in Des Moines Territory and local points in Arkansas. To and from all other Arkansas Common points the Western Trunk Lines receive via all of the gateways mentioned Little Rock revenue. Divisions should be arranged between points in Des Moines Territory and all points in Arkansas via all of the crossings in percentages to and from each point in Arkansas that will accord the Western Trunk Lines approximately the same specifics on each class regardless of the origin or destination in Arkansas (Tr. 5189).

(The statement described by the Witness was thereupon received in evidence as Exhibit A-147.)

[fol. 887] Exhibit No. A-148 comprises three sheets and covers the rates and divisions between points in Omaha Territory and Little Rock, Arkansas. It will be observed from Exhibit No. A-138 that Omaha Territory is west and north of Des Moines Territory, and west of Chicargo Territory located west of the Mississippi River. On Sheet No. 1 I have shown the joint through rates between points in Omaha Territory and Little Rock in Block "A", also the rates in Blocks "B" and "C" between Des Moines Territory and between Davenport Territory and Little Rock. The through rates between points in Omaha Territory and Arkansas points are published specifically, and are not based on differentials over the base point, East St. Louis, Illinois, as was the case in building rates to and from other territories in Western Trunk Line Territory previously described. It will be observed from Block "D" that the lines south of East St. Louis, Illinois, receive Davenport Territory Revenue. This division was arranged so as to accord the Western Trunk Lines the spread in the rates, Omaha Territory over Davenport Territory, which are reflected by a comparison of the rates shown in Block "C" as compared with Block "A," and because of the greater distance between points in Omaha territory and East St.

Louis as compared with Davenport Territory and East St. Louis, however, it will be observed that there is a variation in the rates as between Des Moines Territory and Omaha Territory, the reason for which I do not knew, however, there is a substantial spread in the rates between points Omaha Territory over the rates to and from Devenport Territory, which accounts for the divisions for the Southwestern Lines being based on Davenport earnings so as to accord the Western Trunk Lines evidently the spread in the rates Omaha Territory over Davenport Territory, which [fol. 888] are substantial. The Southwestern Lines are shrinking substantial amounts in cents per 100 pounds on each class below their local rates between East St. Louis and Little Rock as reflected by Block "H" (Tr. 5190-5191).

Sheet No. 2 shows the divisions via Cairo-Gale-Thebes, Illinois, and the situation with respect to divisions is the same as explained in connection with sheet No. 1 that is, the Southwestern Lines receive Davenport revenue for the same reason. This also results in the Southwestern Lines receiving substantial reductions below their local rates. Sheet No. 3 covers divisions via Kansas City. The situation with respect to divisions via Kansas City is similar to the situation explained with respect to Des Moines Territory via Kansas City, that is, the Western Trunk Lines receive Davenport revenue because of their shorter hauls between Omaha Territory and Kansas City as compared with Davenport Territory and Kansas City, and the Southwestern Lines are receiving Davenport revenue plus the spread in the rates Omaha Territory over Davenport Territory because of their greater hauls from Kansas City as compared with East St. Louis all of which apparently is fully justified (Tr. 5191-5192).

There are no divisions between Points in Omaha Territory and Arkansas local points. To and from all other common points in Arkansas, the Western Trunk Lines via all of the gateways mentioned receive Little Rock revenue, so that it is necessary to arrange divisions between points in Omaha Territory and all points in Arkansas that will result in the Western Trunk Lines receiving uniform specifics on each class via a given gateway, and the Southwestern Lines will receive the spread in the rates as the

rates become higher for greater distances. This feature will also be dwelt upon later on (Tr. 5192).

[fol. 889] (The statement described by the Witness was thereupon received in evidence as Exhibit A-148.)

[fol. 890] My Exhibit No. A-~~149~~ covers divisions between points in Kansas City Territory on the C. B. & Q. and Wabash Railroads and Little Rock, Arkansas. Sheet No. 1 of this exhibit shows the current through rates between Kansas City Territory and Little Rock, Arkansas, and the divisions north and south of St. Louis, Missouri, which are 40% north and 60% south. I have also shown the rates between St. Louis Territory and Little Rock and the amounts the Southwestern Lines are shrinking below their locals on the basis indicated in Block "D". The division of 40% for the Western Trunk Lines is excessive in my opinion. Accordingly I have shown in Block "E" the local rates between representative points in Kansas City Territory in the eastern, central and Western portions of that territory and St. Louis, Missouri, and the average from all points as compared with the average of the rates from St. Louis, Missouri, to Little Rock, Arkansas. On a rate prorate basis of the average of the ten classes referred to, the Western Trunk Lines would receive 26.2% and the Southwestern Lines 73.8%, indicating clearly that the divisions received by the Western Trunk Lines are excessive (Tr. 5192-5193).

I am telling you in my opinion it proves it. I am expressing my own opinions in full. You may differ with them. I might say, Mr. Towner, for your information that that division received by the Western Trunk Lines is the same that they get on New Orleans traffic. That is the Kansas City-New Orleans division via New Orleans gateway for the lines in Missouri between Kansas City and St. Louis. In other words, that is a highly competitive situation which has been reflected in these divisions to Arkansas. It will be observed that joint through rates between points in Kansas City Territory and Little Rock, Arkansas, are lower than the rates to or from Chicago, Davenport and Des Moines territories. Accordingly, in my opinion, the South-
[fol. 891] western Lines should be accorded the same revenue as on Davenport traffic. This because the joint through rates are lower between Kansas City and Little Rock as

Davenport Territory, the reason for which is because generally the service between points in Kansas City Territory is less to either St. Louis or Kansas City, Missouri, as between points in Des Moines or Davenport Territories, and St. Louis, or Kansas City, Missouri. This is evidently the basis for the rates, at least their construction so indicates, and accordingly the shrink between Davenport and Kansas City Territory rates should be taken care of by Western Trunk Lines, the effect of which would be to allow the Southwestern Lines the same revenue as on Davenport traffic (Tr. 5193-5194).

Sheet No. 2 of this exhibit covers the divisions via Kansas City, Missouri. I have shown in Block "B" the divisions north of Kansas City received by the Western Trunk Lines, which are 21% and for the Southern Lines 79%, and the resulting divisions in cents per 100 pounds on each class. I have also shown in Block "C" the amounts Southwestern Lines are shrinking currently below their current local rates between Kansas City, Missouri, and Little Rock, Arkansas, all of which are substantial. I have shown what the divisions would be on a rate pro rate, using representative points in Kansas City territory in the eastern, central and western portions of that territory, and Kansas City, the average of which is shown in Block "D". I have also shown the average of the class rates between Kansas City, Missouri, and Little Rock, Arkansas. On a rate pro rate basis the Western Trunk Lines would receive 27% and the Southwestern Lines 73%. In Block E, I have shown the mileages [fol. 892] between the same representative points in Kansas City Territory and Kansas City, Missouri, the average of which is 149 miles, and I have also shown the mileages from Kansas City to Little Rock. A mileage pro rate on this basis would result in Western Trunk Lines receiving 22.8%, as compared with the current division of 21%. I have also shown in Block "E" the mileage between Ferguson, Missouri, and Kansas City, Missouri, Ferguson being located on the south bank of the Missouri River, immediately beyond St. Louis, and reflects the greatest distance between points in Kansas City Territory affected by these divisions and Kansas City, Missouri. Because Kansas City Territory extends from the Mississippi River to the Missouri River, and traffic between any point in Kansas City

territory can move via Kansas City, Missouri, I have taken 50% of the Ferguson, Missouri-Kansas City, Missouri, mileage as a factor and arrived at percentage on mileage prorate on that basis. It will be observed this results in a division of 20.7% for the Western Trunk Lines as compared with division of 21% currently. This accords the Western Trunk Lines as great a division for their longer hauls East of the central part of Kansas City Territory as for their shorter hauls West of the central part of Kansas City Territory; however, I am inclined to the view that the Southwestern Lines should be allowed the same revenue as on Davenport Territory, because the hauls from points in Kansas City territory to Kansas City are less than the hauls between points in Davenport Territory and Kansas City, and because of that condition the rates between Kansas City territory and Arkansas points are lower than the rates between points in Davenport Territory and Arkansas points, and this condition being reflected in the rates, they should be correspondingly reflected in the divisions. Therefore, my suggestion is that the Southwestern Lines should be ac-[fol. 893] corded the same revenue between points in Kansas City Territory and Arkansas points as to and from Davenport Territory (Tr. 5194-5195-5196).

That would result in a decrease in the 21% via Kansas City north. In Block "F" on sheet 2 I have just shown there what Davenport revenue would allow south and north. The present division of 21% is very close to a rate pro rate on the local rates north and south. It is very close to a mileage pro rate. I do not think the rate pro rate is wrong in this instance and should be changed. This division of 21%, if it is wrong, is not far wrong. I think we ought to have a basis for these divisions and I am trying to establish one basis for the entire territory west of the river and that is, generally speaking, Davenport. It just happens that the application would reduce the divisions north, not that I am trying to get any more money, because there isn't much involved in the territory really. We have got to get some sound basis for these divisions, that is the point I am trying to get at; we haven't got a sound basis for them. We jump from one end to another just to suit our own convenience. That is the way it has been in the past. I think I found in one case, I don't recall just where it was, I think

it was in Milwaukee territory, where the Southwestern Lines I thought were getting more than they were entitled to. I think that was on Louisiana or Texas traffic, I don't recall which now, but so far I haven't found any case where I think the Southwestern Lines are getting too much. I have found more cases where I think we are not getting sufficient. I have gone into this question of divisions a little deeper this time than I ever have before. The opportunity presented itself for that purpose (Tr. 5196-5197-5198).

The divisions between points in Kansas City territory and Arkansas points are very limited; in other words, they [fol. 894] are not published between all points in Kansas City territory on all lines, and Arkansas common points, and there are no divisions whatever between points in Kansas City Territory and Arkansas local points, except on the few commodities which are covered by individual issues; however, the Missouri Pacific, and I believe other Southwestern Lines, have an arrangement with the C. & A. R. R., applying between Mexico, Cedar City, Centralia, Higbee, Glasgow and Blue Springs, Missouri, and Arkansas common points via East St. Louis, Illinois, that are published in Missouri Pacific Division Basis No. 4368-A, that accord the C. & A. R. R. percentages that range from 25% to as high as 42%. These divisions are excessive for the Western Trunk Lines, in my judgment, in view of what I have said with respect to Kansas City Territory. Divisions should be arranged between all points in Kansas City Territory and all points in Arkansas via St. Louis, Missouri, and Kansas City, Missouri, based on the specifics on each class as shown by Sheets Nos. 1 and 2 of this exhibit, the average of which should be the factor for the Western Trunk Lines and the factor for the Southwestern Lines should be the average of the balance of the Class rates, the ten class rates, between Kansas City Territory and each Arkansas point. Percentages should be arranged on this basis which would fluctuate for the Western Trunk Lines and for the Southwestern Lines, as the rates become higher for the greater hauls of the Southwestern Lines. However, the fluctuating percentages for the Western Trunk Lines applied to the actual rates would bring about the same division in cents per 100 pounds on each class for the Western Trunk Lines,

regardless of the destination or origin in Arkansas and such percentages should be applied to all traffic (Tr. 5198-5199).

[fol. 895] (The statement described by the Witness was thereupon received in evidence as Exhibit A-149.)

[fol. 896] My Exhibit No. A-150 covers divisions between points in Estherville Territory and Little Rock, Arkansas. On Sheet 1, I have shown rates and divisions via East St. Louis currently in effect. It will be observed that the Southwestern Lines receive the same revenue south of East St. Louis, Illinois, as to or from Chicago territory west of the Mississippi River; in other words, 68% of the Chicago territory rates. The differentials that are used in the construction of the joint through rates between points in Estherville territory and Arkansas points over the base point, East St. Louis, Illinois, are substituted and are considerably higher than the differentials over Chicago territory, and they are also substantially higher than the current Minneapolis-St. Paul differentials. A comparison is shown in my exhibit No. A-141. It will be observed from Block "C" that the divisions currently received by the Western Trunk Lines are in excess of the local rates between Estherville, Iowa, a representative point in that territory and East St. Louis, except on Classes 1 and 2, so that with this exception, by reason of the fact that the Southwestern Lines do not allow the Western Trunk Lines in excess of their local rates nor do I understand the Western Trunk Lines require more than their local rates, the effect of the present basis of divisions is to allow the Western Trunk Lines their full, current local rates, with the exception of Classes 1 and 2. On the other hand, the Southwestern Lines are receiving considerably less than their current local rates as indicated in Block "E"; so that summing up the situation, the Western Trunk Lines are receiving their local rates and the Southwestern Lines are assuming the entire shrink between the joint through rates constructed on the differential basis and the combination over East St. Louis. This exhibit clearly indicates that the divisions received by the Western Trunk Lines are excessive (Tr. 5199-5200).

[fol. 897] I reached that conclusion because they get their local rates or better. When you have a joint through rate that is less than the combination and one group of lines

receive generally as much as their local rates and the other group of lines receives less than their local rates, why there is something the matter with that division in my opinion. Those situations were probably not intended but they automatically work out that way. In my judgment, the Southwestern Lines should be allowed the same revenue on traffic between points in Estherville Territory as on traffic to or from Chicago territory, east of the Mississippi River; I say this, because the differentials—Estherville Territory, as compared with Minneapolis-St. Paul or Chicago Territory differentials are substantially higher, and are higher because of the greater service, so that the Western Trunk Lines should receive the spread in the differentials Estherville territory over Chicago territory for their greater hauls as compared with Chicago territory east of the Mississippi River (Tr. 5201).

Sheet No. 2 covers divisions via Cairo-Gales-Thebes, Illinois. Southwestern Lines receive the same revenue as on traffic to or from points in Chicago territory west of the Mississippi River or 64% of the Chicago Territory rates and the Western Trunk Lines receive the remainder of the joint through rates to or from Estherville Territory. It will be observed from Blocks "D" and "E" that the Western Trunk Lines are receiving less than their local rates except on Classes 4 and 5, on which the divisions accorded the Western Trunk Lines are in excess of local rates. On the other hand, as indicated by Block "F," the Southwestern Lines, on all classes receive substantially less than their local rates. The Southwestern Lines do not shrink as much below their locals on traffic interchanged at Cairo-Gale-Thebes as they shrink on traffic interchanged at East St. [fol. 898] Louis on basis of the current divisions. This is evidently because the hauls of the Southwestern Lines from Cairo-Gale-Thebes, Illinois, are less than the hauls to or from East St. Louis. On the other hand, the Western Trunk Lines are shrinking more on traffic interchanged at Cairo-Gale-Thebes, Illinois, as compared with East St. Louis on which they are doing no shrinking because of their longer hauls to or from Cairo-Gale-Thebes, as compared with East St. Louis. Here again, I am of the opinion that the Southwestern Lines should be accorded the same

revenue as to or from Chicago territory east of the Mississippi River (Tr. 5201-5202).

Sheet No. 3 covers divisions via Kansas City, Missouri. I have shown on Block "B" the divisions as currently in effect for the Western Trunk Lines and for the Southwestern Lines on each class. It will be observed that the Western Trunk Lines are receiving the same revenue as on Minneapolis-St. Paul territory traffic. On impulse, it may appear the Southwestern Lines should receive Minneapolis-St. Paul revenue and the Western Trunk Lines the remainder of the joint through rates because the joint through rates between Estherville Territory and Arkansas are higher than between Minneapolis-St. Paul territory and Arkansas, because of the high differentials used in their construction; however, on referring to my Exhibit No. A-138, which is a map of the various rate territories, within Western Trunk Lines territory, on Arkansas traffic it will be observed that the hauls of the Western Trunk Lines between Estherville Territory and Kansas City, Missouri, are less than the hauls between points in Minneapolis-St. Paul territory and Kansas City, whereas the hauls of the Southwestern Lines to or from Kansas City, Missouri, using Little Rock as an example, are 160 [fol. 899] miles in excess of the hauls between East St. Louis and Little Rock, Arkansas. Because the hauls of the Western Trunk Lines are substantially less between points in Estherville territory and Kansas City, Missouri, as compared with the hauls between points in Minneapolis-St. Paul Territory and Kansas City, Missouri, and further because the hauls of the Southwestern Lines are substantially greater from Kansas City as Compared with East St. Louis, the Western Trunk Lines have been accorded the same revenue between points in Estherville territory and Kansas City as between Minneapolis-St. Paul territory and Kansas City, so that the Western Trunk Lines are receiving under the present basis of divisions the same consideration for their shorter as for their longer hauls. On the other hand, the Southwestern Lines should rightfully be entitled to greater revenue south of Kansas City as south of St. Louis and they do under the present basis to the extent of receiving the difference in the through

rates Estherville territory over Minneapolis-St. Paul territory (Tr. 5202-5203-5204).

Well, I am merely saying in this case here that I think the basis for these divisions is sound; it works out that way in this case; there's very little difference. I notice on first and second class there's 5.3 cents and 5.9 cents shrink on the part of the Western Trunk Lines and on some of these classes there are no shrinks; it just works out that way. I don't think that the situation where the Southwestern Lines are getting more than their local rates in six our ten cases should exist, as a matter of fact. That is not a sound basis. The Western Trunk Lines should have some more money on that. There is no question about that. But that is exactly the way these divisions work out. I am trying to bring out just exactly the way the present basis works out. I think the present bases for divisions are fully justified under the circumstances, via Kansas [fol. 900] City. Now, I have used the word "basis" there, not the divisions themselves (Tr. 5204-5205).

There are no divisions between points in Estherville Territory and points in Arkansas, except common points. The Western Trunk Lines receive Little Rock revenue to and from Arkansas Common points, so that at the present time no divisions are in effect to or from Arkansas local points via East St. Louis or via any of the gateways mentioned. As to a general basis of divisions. I will have something to say about that feature later (Tr. 5205-5206).

(The statement described by the Witness was thereupon received in evidence as Exhibit A-150.)

[fol. 901] My exhibit No. A-151 covers divisions between points in St. Paul Territory west of the Mississippi River and Little Rock, Arkansas, via Kansas City, Missouri. This is the only gateway via which divisions are carried to and from St. Paul territory west of the Mississippi. It will be observed from Block "C" that the Southwestern Lines receive the same revenue as to and from Chicago Territory west of the Mississippi River; in other words 77% of the Chicago territory through rates which are shown in Block "B" and the Western Trunk Lines receive the remainder of the joint through rates to or from St. Paul territory, west of the Mississippi. I have shown in Block "D" pres-

ent divisions between Chicago territory in Illinois and Cairo-Gale-Thebes, Illinois, received currently by the Western Trunk Lines and I have shown in the same block what the specifics on each class would be for the Western Trunk Lines between Chicago territory in Illinois and East St. Louis, Illinois, if based upon 65% of the specifics to or from Cairo-Gale-Thebes, Illinois. The Minneapolis-St. Paul territory differentials are substantially in excess of the Chicago territory differentials over the base point East St. Louis, Illinois, and if the spread in the current differtials is added to the specifics between Chicago territory and East St. Louis based on 65% of the specifics between Chicago territory and Cairo-Gale-Thebes, Illinois, as shown in Block D, the Western Trunk Lines would receive on first class between St. Paul territory and Kansas City, 72.1 cents per 100 pounds; in other words, approximately what they are receiving today. In other words, in my judgment because the hauls of the Southwestern Lines from Kansas City exceed the hauls from East St. Louis by 160 miles, the Southwestern Lines should receive south of Kansas City, Missouri, the same revenue as to or from Chicago territory [fol. 902] east of Mississippi River, using as a basis the specific shown at the bottom of Block "D." Or, to be more specific, 41.6 cents on first class for the Western Trunk Lines between Chicago territory and East St. Louis, which should be deducted from the Chicago Territory through rate in order to arrive at the proportion for the Southwestern Lines. The remainder of the joint through rates between St. Paul Territory and Arkansas points should accrue to the Western Trunk Lines north of Kansas City, Missouri. The effect of this basis would be to allow the Western Trunk Lines specifics in cents per 100 pounds slightly less the divisions they receive currently. The average of the specifics on the ten classes for the Western Trunk Lines, on that basis should be arrived at and the average of the specifics for the Southwestern Lines on that basis should also be arrived at specifically to and from each Arkansas point and percentages arrived at. This would result in the Western Trunk Lines receiving approximately the same specifics, regardless of origin or destination in Arkansas. This is proper because the rates between St. Louis or Kansas City and Arkansas points under the 9702

scale advance as the hauls of the Southwestern Lines increase, so that the Western Trunk Lines should receive approximately the same earnings in cents per 100 pounds on each class to or from a point in northern Arkansas as to or from a point in southern Arkansas, and the application of the above basis would bring that effect as nearly as it is possible to do so (Tr. 5206-5207-5208).

(The statement described by the Witness was thereupon received in evidence as Exhibit A-151.)

[fol. 903] I would like to have had considerably more time to get into this question of divisions much deeper than I did, but I worked night and day to get as far as I did. The fact that I haven't shown the local rates south of Kansas City in this and other exhibits is more a question of time than anything else. I had to finish up down here and that is the reason I coudn't go into these matters in any more detail (Tr. 5208-5209).

In my Exhibit No. A-140, it is shown that effective October 6, 1913, the combinations over Cairo-Gale-Thebes, Illinois, using proportional rates between Chicago Territory and Cairo-Gale-Thebes, Illinois, and the local rates between the latter points and points in Arkansas were lower than the combinations over the East St. Louis gateway, and in my Exhibits Nos. A-142 and A-143, I have shown that currently the combinations over Cairo-Gale-Thebes, Illinois, are lower than the combinations over East St. Louis between Chicago Territory and points in Arkansas using the proportional rates of the Western Trunk Lines between Chicago Territory and Cairo-Gale-Thebes, Illinois, or East St. Louis, Illinois, and the local rates between the latter points and points in Arkansas. The Westen Trunk Lines may contend that the proportional rates published between Chicago and Milwaukee Territories and Cairo-Gale-Thebes and East St. Louis, Illinois, are merely paper rates, because when originally publisehd and the Tariff now provides that these proportional rates are applicable only on traffic to or from points in Arkansas and Missouri to or from which no through rates are provided. I am referring to E. B. Boyd's Tariff No. 506-G, I. C. C. No. A-1438, which is the current issue, but the previous issues made the same provision (Tr. 5209).

Originally as previously pointed out in my testimony, joint through rates between Chicago, Milwaukee and other Territories were in effect only to and from Arkansas com- [fol. 904] mon points, and the joint through rates to and from Arkansas local points were made by the use of the proportional rates between Chicago and Milwaukee Territories and Cairo-Gale-Thebes, Illinois, and the local rates between the latter points and Arkanas local points, and at that time, or in other words prior to October 7, 1913, the lines between Chicago Territory and East St. Louis received as their division 65 per cent of the proportional rates between Chicago Territory and Cairo-Gale-Thebes, Illinois. On October 7, 1913, joint through rates were established between Chicago, Milwaukee, Minneapolis-St. Paul and other Territories and Arkansas local points by the use of the established differentials previously observed in making rates to and from Arkansas Common points, the effect of which materially reduced the through charges below the lowest combinations previously in effect. Notwithstanding the publication of joint through rates to and from Arkansas local points on October 7, 1913, and a continuation of the joint through rates to and from Arkansas common points, the proportional rates published between Chicago and Milwaukee Territories and Cairo-Gale-Thebes, and East St. Louis, Illinois, were continued, and they are still in effect, although I understand the Illinois Lines are now striving to cancel this Tariff because joint through rates are in effect to and from Arkansas and Southeast Missouri. This Tariff for a number of years has been used primarily as a division sheet because, as previously pointed out, the Western Trunk Lines have been allowed as their division of the joint through rates to and from Arkansas, the proportional rates between Chicago and Milwaukee Territories and Cairo-Gale-Thebes, or East St. Louis, Illinois, and not until September 1, 1923, was this Tariff discontinued as a division sheet; however, the divisions as published in that Tariff as in effect on August 25. [fol. 905] 1920, were perpetuated in Illinois Freight Association Tariff Bureau Division Sheet No. 5, effective September 1, 1923, and published to reflect an advance of 35 per cent on account of I. C. C. Ex Parte 74, because the joint through rates, under the latter order, were advanced

35 per cent as against an actual advance of 40 per cent in the proportional rates, and the divisions so arrived at were then reduced 10 per cent to reffect the general reduction of 1922, so that on and after September 1, 1923, E. B. Boyd's Tariff No. 506-G, I. C. C. No. A-1438, was no longer observed as a division sheet on traffic to or from points in Arkansas. Because joint through rates have been in effect to and from all points in Arkansas on and after October 7, 1913, the Western Trunk Lines now contend, I understand, that the rates published in E. B. Boyd's Tariff No. 506-G, I. C. C. No. A-1438, are merely paper rates. Those are the proportional rates (Tr. 5210-5211-5212).

For the reason that they are paper rates as before stated, the Illinois Lines are striving to have this Tariff cancelled and have issued instructions to that effect although objected to by the Missouri Pacific Railroad, St. Louis, San Francisco Railway and the St. Louis Southwestern Railway. Whether these proportional rates may be termed "[illegible]es" or not, it is nevertheless a fact that these [illegible] been and are filed with the Interstate Commerce Commission, and they have been used, in a great many cases, in establishing joint through rates to and from points in Arkansas and Southeast Missouri that currently reflect the original proportion rates, and while the present rates are not on the full combination of local and proportional rates, they lack being on the full combination basis by reason of the 5 per cent advance made in the proportional rates to the Western Trunk Lines on November 16, 1914, and the 40 per cent advance made under I. C. C. Ex [fol. 906] Parte 74 in the proportional rates as compared with the interterritorial advance of 35 per cent in the joint through rates, however constructed (Tr. 5212-5213).

It is rather significant that the Illinois Lines have only recently attempted to have this Tariff cancelled, and these efforts were made after the institution by the Commission of the proceedings in this investigation. However, be that as it may, the fact has been conclusively established that the through rates on October 7, 1913, were lower than the lowest combination which was over Cairo-Gale-Thebes, Illinois, made by the use of the proportional rates between Chicago and Milwaukee Territories and Cairo-Gale-Thebes, Illinois, as then published in E. B. Boyd's Tariff No. 506-B,

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TRANSCRIPT OF RECORD

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vs.

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No. 643

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APPEALS FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF MISSOURI

FILED FEBRUARY 8, 1930

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I. C. C. No. A-281, and that they are currently lower than the lowest combination over Cairo-Gale-Thebes, Illinois, by the use of E. B. Boyd's Tariff No. 506-G, I. C. C. No. A-1438. Nevertheless, the Western Trunk Lines have continued to receive their full proportional rates between Chicago and Milwaukee Territories and Cairo-Gale-Thebes, Illinois, or East St. Louis, Illinois, on and after October 7, 1913, in division of the joint through rates that were established on the differential basis and consequently much lower than the lowest combination, or, more than they received when no joint through rates were in effect to and from Arkansas local points in division of the lowest combination then in effect by the use of the Tariffs referred to (Tr. 5213).

Summing up the situation, it is the contention of the Southwestern Lines that on traffic moving between Chicago Territory and points in Arkansas interchanged at East St. Louis, Ilinois, that the Western Trunk Lines should receive as their division 65 per cent of the specifics currently published between Chicago Territory and Cairo-Gale-Thebes, Illinois, as published in Illinois Freight Associa- [fol. 907] tion Division Sheet No. 5, which has been made a part of this record. Because the Western Trunk Lines may contend that the present proportional rates should be cancelled because joint through rates are in effect, and that they may, therefore, be termed only "paper rates", I have shown on my Exhibit No. A-152, the current local rates between Chicago Territory in Illinois and Cairo-Gale-Thebes, Illinois, to and from eighteen representative points in Illinois having a population of 10,000 or more. I have shown the average of the ten class rates between each point in Illinois selected and Cairo-Gale-Thebes, Illinois, and the total average between all of the Illinois points and Cairo-Gale-Thebes, Illinois, or 39.3 cents per 100 pounds. I have also shown on this Exhibit the local rates currently in effect between Cairo-Gale-Thebes, Illinois, and Little Rock traffic by use of these averages as factors, beings about a division of 33 per cent for the Western Trunk Lines between Chicago Territory in Illinois and Cairo-Gale-Thebes, Illinois, and 67 per cent for the Southwestern Lines between Cairo-Gale-Thebes, Illinois, and Little Rock, Arkan-

sas. Subdividing the 33 per cent via East St. Louis on agreed per cents or 65 per cent to the Western Trunk Lines north of East St. Louis and 35 per cent south thereof, brings about a division of 21½ per cent between Chicago Territory and East St. Louis, Illinois, on Chicago Territory-Little Rock, Arkansas, traffic, via East St. Louis, Illinois (Tr. 5214-5215).

(The statement described by the Witness was thereupon received in evidence as Exhibit A-152.)

[fol. 908] My Exhibit No. A-153 shows what the Western Trunk Lines would receive as specifics on each class in cents per 100 pounds on the basis of 65 per cent between Chicago Territory and East St. Louis, Illinois, of the specifics published in Illinois Freight Association Division Sheet No. 5 between Chicago Territory in Illinois and Cairo-Gale-Thebes, Illinois. This is reflected in the first block. The average of the ten classes is 21.4 cents per 100 pounds to the Western Trunk Lines on that basis. I have next shown on this Exhibit the combinations over East St. Louis, Illinois, by the use of the current local rates between Chicago Territory and Cairo-Gale-Thebes, Illinois, also East St. Louis, Illinois, and the local rates between the latter points and Little Rock, Arkansas. This clearly demonstrates that the lowest combination of local rates currently is over Cairo-Gale-Thebes, Illinois, so that whatever may be said of the proportional rates, the condition by the use of the local rates brings about a similar situation in that the combination of the local rates over Cairo-Gale-Thebes, Illinois, would make the lowest through charge the same as I have previously pointed out would be the result by the use of the proportional rates. Applying the division of 21½ per cent for the Western Trunk Lines between Chicago Territory and East St. Louis, Illinois, to the through rates between Chicago Territory and Little Rock, Arkansas, would result in the Western Trunk Lines receiving between Chicago Territory in Illinois and East St. Louis, Illinois, the specifics in cents per hundred pounds on each class as shown in the third block of this Exhibit, which it will be observed justifies the basis for the divisions proposed between Chicago Territory and Little Rock, Arkansas, as indicated in the first block of this Exhibit. The average of the specifics in the third block is 22.1 cents

per 100 pounds as compared with the average of the pro-
[fol. 909] posed specifics in the first block of 21.4 cents per 100 pounds. This basis seems to be sound, because in the absence of joint through rates and in the absence of proportional rates between Chicago Territory and Cairo-Gales-Thebes, or East St. Louis, Illinois, the lowest combination of local rates would be over Cairo-Gale-Thebes, Illinois, and the carriers north between Chicago Territory and East St. Louis, Illinois, would receive their agreed division of the local rates between Chicago territory and Cairo-Gale-Thebes, Illinois, for their service between Chicago Territory and East St. Louis, Illinois, and the Western Trunk Lines cannot expect to receive a higher division than proposed in division of the joint through rates that are decidedly less than the lowest possible combination (Tr. 5215-5216-5217).

The Southwestern Lines maintain that the Western Trunk Lines are not entitled to any greater division in cents per hundred pounds on each of the classes than shown in the first block of this Exhibit as proposed, namely the following specifics between Chicago Territory and East St. Louis, Illinois: Classes 1, 41.6; 2, 35.1; 3, 29.2; 4, 21.1; 5, 15.9; A, 16.6; B, 15.9; C, 14.6; D, 12.7, and E, 11.4; because, as previously pointed out in my testimony, all of the circumstances related justify no greater allowance to the Western Trunk Lines in division of joint through rates as currently in effect. Via Cairo-Gale-Thebes, Illinois, the Western Trunk Lines are not entitled to the present specifics published in Illinois Freight Association Division Sheet No. 5, because they practically equal their full proportional rates. Because the result of these divisions forces the entire shrink between the lowest combination that would obtain and the present through rates made by the use of differentials that are practically 50 per cent
[fol. 910] lower than the current proportional rates, the Southwestern Lines maintain that the divisions between Chicago Territory in Illinois and Cairo-Gale-Thebes, Illinois, should be as much more in cents per hundred pounds on each class than proposed via East St. Louis, Illinois, as the spread in the local rates between Chicago, Illinois, and Cairo-Gale-Thebes, Illinois, as compared with East St. Louis, Illinois, which can be readily determined from Block No. 2 of this Exhibit. In other words, the spread in the

local class rates between Chicago, Illinois, and Cairo-Gale-Thebes, Illinois, as compared with the local rates between Chicago, Illinois, and East St. Louis, Illinois, is as follows: Classes 1, 9-1/2; a, 8; 3, 6-1/2; 4, 5; 5, 3-1/2; A, 4; B, 3-1/2; C, 3; D, 2; E, 1-1/2 (Tr. 5217-5218).

This will result in the Western Trunk Lines receiving between Chicago Territory in Illinois and Cairo-Gale-Thebes, Illinois, the specifics in cents per hundred pounds as shown in the last block of this Exhibit. We also think this basis is sound because the divisions via East St. Louis, Illinois, should not exceed the spread in their local rates. I have previously pointed out a number of times that under the present divisional arrangements, the Western Trunk Lines in division of through commodity rates receive the same class specifics as in division of a through class rate, because of the lack of corresponding commodity specifics in Illinois Freight Association Division Sheet No. 5. It is the thought of the Southwestern Lines that the proper solution is to establish through percentages to apply on all traffic. Percentages can be arrived at in the manner indicated previously by the use of the average of the specifics on the ten classes as proposed and as shown specifically in the first block of this Sheet for the Western Trunk Lines, and the balance of the through class rates for the South-[fol. 911] western Lines, the average of the ten classes to be used and percentages arrived at on that basis to and from all points in the State of Arkansas and points in Chicago Territory in Illinois. This will result in the Western Trunk Lines receiving practically the same specifics on each class regardless of the origin or destination in Arkansas as proposed by the Southwestern Lines via East St. Louis, and the same method should be followed via Cairo-Gale-Thebes, Illinois, by the use of the proposed specifics for the Western Trunk Lines shown in the last block of this Exhibit. The result would be that percentages would be in effect between Chicago Territory and all Arkansas points via East St. Louis on a percentage basis, and all traffic should be divided on those percentages regardless, in my opinion, of how made. Some of the lines are very insistent that no line should receive in excess of its current local rate as their division. The basis I have proposed may in some instances have that result, but it is a very difficult matter for the Accounting Departments under the

present methods to check up these situations and in the end more money would be spent in attempting to make a thorough check of this kind than the difference in the earnings would warrant, and further it would continue indefinitely. The executives of all lines for the past several days have interested themselves in establishing through percentages in division of joint through rates and they have gone even further by suggesting simplified per-cent-ges; however, if a clause is inserted in the division sheet limiting the lines to their local rates as maxima, it destroys the fabric of the division sheet, because the carriers would be better off with specifics than percentages. I am not opposed to the principle of locals as maxima, but I am opposed to the amount of work it involves on the ac- [fol. 912] counting departments and inflicting on the accounting departments arrangements that are difficult and sometimes impossible to observe or check. For reasons given I am opopsed to a provision limiting the lines to locas*l* as maxima (Tr. 5218-5219-5220).

In Exhibit A-124 the division of the first class rate from Chicago Territory to Little Rock is 56 cents on the lines north via St. Louis. In Exhibit A-153 I am proposing a division for the lines north of 41.6 cents out of the first class rate. At the present time the rate is divided on the basis of 56 cents to the lines north. Fifty-six cents is 65% of the current divisions between Cairo, Gale and Thebes and Chicago territory. I don't think the relationship to the local rates is wrong because the lines north get 70% of their local rate and the lines south 84% of their local rate. I don't think, if you consider the way these joint through charges were originally constructed by the use of these proportional rates over Cairo-Gale-Thebes and the fact that at that time when there were no joint through rates that the Western Trunk Lines did receive 65 percent of these proportional rates between Chicago and Cairo and Gale and Thebes for the haul to East St. Louis and when you adopt joint through rates that are less than the combination that formerly existed, that the Western Trunk Lines should not have received any more revenue than they formerly did. That is notwithstanding the fact that under the divisions the Western Trunk Lines are getting 70 percent of their local rate and the Southwestern Lines 34 percent. The division of 41.6 cents which I proposed would result

in a division north of East St. Louis to Chicago of earnings amounting to 52 per cent of the local rate (Tr. 5220-5221-5222).

[fol. 913] I think that a straight rate pro rate would be wrong. I think it is wrong for this reason, that if there were no joint through rates, there never were any proportional rates in effect, it is shown here by this last exhibit that your lowest combination of local rates would be over Cairo. In that event the lines north of East St. Louis would receive 65 per cent of that local rate. That would result in a division of 21½¢. That is 65 per cent of the local rate using the average. I omitted on Exhibit No. A-152 to include Joliet and Kankakee. That should have been included because of the population and it would have changed that percentage slightly. It would make it 21.6 per cent instead of 21.5 per cent. It might have amounted to more (Tr. 5222-5223).

Examiner Disque here inquired whether or not divisions based upon the use of a formula allowing the lines south of Kansas City a mile and a third or a mile and a quarter or a mile and a half for every mile north of Kansas City would increase the proposed division. The witness replied that he did not know (Tr. 5223).

The Witness: I think you can't lose sight of the basis that is used in making this general level of rates.

Mr. Muckley: This is all classes you have been talking about, isn't it, Mr. Sickel?

A. Well, the class rates reflect as I have always understood the level of the classes reflect the general conditions of each territory.

By Exam. Disque:

Q. Before we decide this case the Commission may prescribe some new class rates for the Southwest; then what will we do with your proposal?

A. Well, I don't think that everytime they change the class rates on either side of the Mississippi River that that necessarily calls for a revision in these divisions. We would keep continualy changing divisions and that is one of our troubles.

[fol. 914] Exam. Disque: The best thing to do then would be to say that a mile north of St. Louis is equal to a mile and a half and,—or a mile and a third south.

Mr. Towner: I just had that figured out, any and all traffic between Little Rock, Arkansas, and Chicago, allowing a mile and a half south of East St. Louis for a mile north would result in divisions to the northern lines of 35 per cent of the through rate, slightly more than the rate pro-rate.

Mr. Larimore: Well, I might state right now that in as much as traffic density between Chicago and St. Louis is probably 5 times more than that between St. Louis and Little Rock I am not interested in your mileage pro-rate. It sounds funny to me when you talke about a mileage pro-rate with traffic density five times as high as the other.

Exam. Disque: It looks to me like a simple way for the Commission to settle this is to say how much a mile north is equal to a mile south.

A. What was that divisions, 35 per cent, Mr. Towner?

Mr. Towner: 35 per cent.

Exam. Disque: And a mile and a quarter or a mile and a half, and let the chips fall where they may.

Mr. Muckley: Well, I think those constructive mileages should be based on the record and the traffic density.

Exam. Disque: On the record (Tr. 5224-5225).

The Witness (continuing): These rates in Arkansas are made via St. Louis and East St. Louis, they scale upward as distance increases southward. Now if you divide these rates on a mileage pro-rate you are going to have a fluctuating pro-rate north of East St. Louis although the pro-[fol. 915] portion south is constant. Now in spreading those divisions, have some science in making divisions and I don't think myself that the mileage pro-rate is very scientific. If you take those things into consideration (Tr. 5225).

(Here followed a discussion between Attorney Larimore and Attorney Towner with reference to the local basis of rates imposed on the Western Trunk Line Territory.)

The Witness (continuing): With respect to traffic between points in Milwaukee and Minneapolis-St. Paul Territories, including Chicago Territory west of the Mississippi River, the Southwestern Lines believe they should be ac-

corded Chicago revenue on the basis of my proposal via either East St. Louis or Cairo-Gale-Thebes, Illinois. I have previously pointed out in my testimony that originally Milwaukee Territory carried a substantial differential over Chicago Territory, namely 6 cents per 100 pounds on first class and relatively lower spreads on the other classes, whereas, effective June 1, 1898, the original Milwaukee differentials were wiped out and the reduced Chicago differentials substituted, so that on and after June 1, 1898, Milwaukee enjoyed the same joint through rates to and from points in Arkansas as Chicago Territory. I also pointed out that because of the elimination of the original Milwaukee differentials and the substitution of the reduced Chicago differentials a corresponding reduction was made in the differentials to and from Minneapolis-St. Paul territory, so that on and after June 1, 1898, Minneapolis-St. Paul Territory maintained the same spread in their differentials over Milwaukee Territory as prior to June 1, 1898. The reduction in the differentials amounted at that time to 15 cents per 100 pounds on first-class with relative reductions on the other classes. This is brought out conclusively by my Exhibit No. A-141, which shows the differentials [fol. 916] over the base point, East St. Louis, Illinois, to and from Chicago, Milwaukee and Minneapolis-St. Paul Territories beginning with October 1, 1896, up to the current date. The Southwestern Lines on and after June 1, 1898, were rightfully entitled to Chicago revenue, because prior to June 1, 1898, the Southwestern Lines did receive Chicago revenue and with the el-mination of the Milwaukee differentials with corresponding reductions to and from Minneapolis-St. Paul Territory, the Southwestern Lines, as pointed out repeatedly in my testimony, continued to allow the Western Trunk Lines the same divisions as they received prior to June 1, 1898, and as a result the Southwestern Lines assumed the entire shrink by reason of the elimination and corresponding reductions in the differentials. The proposal of the Southwestern Lines is that on traffic to or from points in Milwaukee and Minneapolis-St. Paul territories, also Chicago Territory west of the Mississippi River that the Southwestern Lines should be accorded the same revenue as proposed to and from Chicago Territory in Illinois. It follows, of course, that through percentages ought to be established on the basis previously indicated,

so that all joint through rates would be divided on through percentages to and from all points in Arkansas, both class and commodity rates. This will eliminate all of the controversies that are continually confronting the carriers and dragging along indefinitely before divisions are finally agreed upon and then only to a very limited extent (Tr. 5226-5227-5228).

On traffic to or from points in Davenport and Des Moines Territories via East St. Louis, Illinois, and also via Cairo-Gale-Thebes, Illinois, the Southwestern Lines should similarly receive Chicago revenue as proposed, and through per centages arrived at in the manner previously indicated, [fol. 917] and via Kansas City I have already stated that the present basis in my opinion is sound except with possibly some slight modification. What I have said with respect to Davenport and Des Moines Territories is also applicable to Omaha Territory via East St. Louis, also via Cairo-Gale-Thebes, Illinois, that is, the Southwestern Lines should receive Chicago revenue using as a basis the proposal I have made, and via Kansas City I have already pointed out what, in my judgment, should be done (Tr. 5228-5229).

On traffic to or from points in Estherville Territory, the Southwestern Lines should also receive Chicago revenue via East St. Louis, Illinois, also via Cairo-Gale-Theges, Illinois, and via Kansas City I have already stated the position of the Southwestern Lines. In further proof that the Southwestern Lines should receive Chicago Territory revenue on traffic to and from points in Milwaukee and Minneapolis-St. Paul Territories, also other Territories west of the Mississippi River previously mentioned, I desire to submit my Exhibit No. A-154, which comprises two sheets and is a statement of the local and proportional rates between Chicago, Illinois, Milwaukee, Wisconsin, and Minneapolis-St. Paul, Minnesota, on the one hand, and East St. Louis, Cairo-Gale-Thebes Illinois, Evansville, Indiana, New Albany, Jeffersonville, Indiana, Louisville, Kentucky, and Cincinnati, Ohio, also Mississippi Valley points, namely Memphis, Tennessee, Vicksburg, Mississippi, and New Orleans, Louisiana. It will be observed that Milwaukee, Wisconsin, in all cases, enjoys a substantial spread over Chicago, Illinois, in the through rates as shown, both local and proportional, except in some cases, there are no propor-

tional rates. However, the flat rates in all cases are higher to and from Milwaukee, Wisconsin, as to or from Chicago, Illinois, and similarly Minneapolis-St. Paul, Minnesota. [fol. 918] This condition does not prevail, as repeatedly pointed out, on traffic to or from points in Arkansas, Louisiana and Texas, Milwaukee Territory enjoying the same joint through rates to and from Arkansas, also Louisiana and Texas, as Chicago Territory. Regardless of what may have brought about the elimination of the Milwaukee differentials with corresponding reductions to and from Minneapolis-St. Paul Territory, on traffic to or from Arkansas, also Louisiana and Texas, it follows that if the Western Trunk Lines are not satisfied with the proposal as made by the Southwestern Lines in this proceeding, the remedy is not in the divisions insofar as the Southwestern Lines are concerned (Tr. 5229-5230).

In further proof that the Southwestern Lines are entitled to Chicago revenue on traffic to or from Milwaukee and Minneapolis-St. Paul Territories, I desire to point out that on traffic to and from points in the original so-called Trans-Missouri Territory which embraces the States of Southwest Missouri, Kansas, Nebraska, Oklahoma, Colorado and Utah, the lines west of the Missouri River have always received Chicago revenue, although the rates to and from Milwaukee are on the same basis as to and from Chicago. I also desire to point out that on traffic handled via the East St. Louis gateway in connection with some of the Southwestern Lines, the bridge tolls of the Terminal Railroad Association of St. Louis, Missouri, in all cases at the present time are assumed by such Southwestern Lines, so that the earnings of the Southwestern Lines as reflected in the various exhibits that I have presented, do not reflect their actual earnings in all cases, because where the bridge tolls are paid by the Southwestern Lines their earnings are as much less than shown on the Exhibits as are the bridge tolls that are paid. This is in both directions (Tr. 5230-5231).

(The statements described by the Witness were there-[fol. 919] upon received in evidence as Exhibits A-153, and A-154.)

[fol. 920] That is true via the St. Louis gateway. Via East St. Louis when the traffic is handled via the Missouri

Pacific or the Cotton Belt over our east side lines it is not true, but on less carload traffic that breaks bulk at St. Louis it is true. There we have really a double bridge service. For example, take a shipment from Chicago to Arkansas. The traffic is brought into St. Louis to the St. Louis freight terminal station and has to be unloaded, reassembled and reloaded and taken back over the River, but on carload traffic in connection with the Missouri Pacific or the Cotton Belt the interchange is on the east side and there is no bridge toll involved. The majority of our Chicago traffic is handled on the east side except perishables. This is not necessarily to avoid the charge. The Missouri Pacific and Cotton Belt handle all commodity carload freight over their east side lines. Perishables are handled by the west side because of refrigeration on the west bank. The L. C. L. traffic is taken back over the Illinois division of the Missouri Pacific or the Cotton Belt. The principal reason that that does not go on our west side lines is because of the anomalous condition of that territory over there, and that the trains are made up on the east side. It is more convenient to handle it on the east side. It does not all cross the river. That would not be the case of through merchandise cars. It is less difficult from an operating standpoint to handle it that way. I think the bridge tolls ought to be taken into consideration. I have always thought that. I did not think it was proper that the Southwestern Lines should be required to assume bridge tolls in both directions. The Division sheets on this Southwestern Lines traffic read via St. Louis, Mo.-East St. Louis, Ill. We have not agreed to standing the bridge tolls in both [fol. 921] directions. That has just simply been forced upon us. They did attempt, some years ago, to get the east side lines to take care of the bridge tolls on east side business, but all the cars were turned back to us and the terminal at St. Louis and East St. Louis were congested as a result (Tr. 5231-5232-5234).

My next Exhibit No. A-155, covers divisions on potatoes between several Minnesota points and Little Rock, Arkansas, *via* East St. Louis, Illinois. The Southwestern Lines currently receive the same revenue as to or from Milwaukee, Wisconsin. The rates from Isanti, Minneosta are made on the basis of a specific differential over Milwaukee, Wisconsin, of 8 cents, and the Milwaukee differential over

the commodity rates between East St. Louis and Little Rock is the Class "C" differential. In the division of these rates, it will be observed that the Western Trunk Lines receive 30½ cents per 100 pounds as a result of the Southwestern Lines receiving Milwaukee revenue. This is the local rate from Isanti, Minnesota, to East St. Louis, Illinois, as published in E. B. Boyd's Tariff No. 81-D, I. C. C. No. A-1512, whereas the Southwestern Lines are receiving 11½ cents per 100 pounds less than their commodity local rate from East St. Louis to Little Rock, Arkansas. The Southwestern Lines are making the same shrink in cents per 100 pounds below their local commodity rate as they shrink in division of a through class rate from Milwaukee, so that in division of through rates on potatoes from Isanti, Minnesota, the Western Trunk Lines receive their full local rate to East St. Louis, and the Southwestern Lines do all of the shrinking. This is also true of the divisions on potatoes from Cloquet, Minnesota, except that the Western Trunk Lines in division of the through rates receive 3 cents per 100 pounds less than their local rates between Cloquet, Minnesota, and East St. Louis, Illinois, and the Southwest-
[fol. 922] ern Lines receive 11½ cents less than their local rate from East St. Louis to Little Rock, bringing out the point that I have repeatedly made that it is not proper that the Southwestern Lines should make the same shrink in division below their local commodity rates as they shrink in connection with a higher through class rate. Naturally, the through commodity rates are lower than the through class rates, otherwise there would be no occasion to publish through commodity rates (Tr. 5234-5235).

(The statement described by the Witness was thereupon received in evidence as Exhibit A-155.)

[fol. 923] My Exhibit No. A-156, covers divisions on cheese, carload, from Wisconsin Group points, including Milwaukee, Wisconsin, to Little Rock, Arkansas, via East St. Louis, Illinois. The rates as shown on this Exhibit were published in compliance with order of the Interstate Commerce Commission under Docket No. 15880, and are published in F. A. Leland's Tariff No. 45-P, I. C. C. No. 1644, effective June 5, 1924. It will be observed that the specific through rates from the Wisconsin Group to Little Rock, which includes points in the so-called Milwaukee Ter-

ritory and north, is $1.33 per 100 pounds, from Chicago Group the rate is $1.15 per 100 pounds, and from St. Louis, Missouri-East St. Louis, Illinois, 96 cents per 100 pounds. It will be observed from the third block of this Sheet that the Milwaukee current third class differential over St. Louis, Mo.-East St. Louis, Ill. is 18½ cents, the same as the Chicago current third class differential; however, the Interstate Commerce Commission have fixed the Wisconsin Group, which includes Milwaukee, Wis., on cheese, carload, on a differential basis higher than St. Louis of 37 cents per 100 pounds, or in other words, the through rates on cheese from the Wisconsin Group as fixed by the Interstate Commerce Commission are practically the same as the present Minneapolis-St. Paul third class differential over St. Louis, Mo.-East St. Louis, Ill. I want to call particular attention to the fact that the rates from the Wisconsin Group on cheese as fixed by the Commission, which includes Milwaukee, Wis., are 18 cents per 100 pounds higher than the rates from Chicago Group. These are Commission made rates. This further brings out the point that if the Western Trunk Lines maintain that the rates to and from Milwaukee Territory should be on the same basis as to and from Chicago Territory, that the Southwestern Lines are entitled to Chi-
[fol. 924] cago revenue, although the Interstate Commerce Commission, in their judgment, have made rates from Milwaukee, Wis., 18 cents per 100 pounds higher than the rates fixed by the Commission from Chicago Territory. The divisions on the present basis, it will be observed, allow the Western Trunk Lines 1 cent per 100 pounds less than their proportional rate from Milwaukee Territory, and the present divisions allow the Southwestern Lines 9½ cents per 100 pounds less than the commodity rate from St. Louis, Mo.-East St. Louis, Ill., to Little Rock, Ark. (Tr. 5235-5236-5237).

(The statement described by the Witness was thereupon received in evidence as Exhibit A-156.)

I now desire to take up the matter of divisions between points in Western Trunk Line Territory and Texas via St. Louis, Mo.-East St. Louis, Illinois, also via the Cairo-Gale-Thebes Gateways. My Exhibit No. A-157 is a map showing the territorial limits of Chicago, Milwaukee, Fox River, Omaha-Davenport, St. Louis and Kansas City Ter-

ritories, applicable on Texas traffic, also Louisiana traffic, which reflect the rate groups, and upon which divisions are largely based (Tr. 5238).

(The statement described by the Witness was thereupon received in evidence as Exhibit A-157.)

[fol. 925] By Mr. Towner:

Q. These groups on A-157 apply through St. Louis-East St. Louis via Cairo-Gale-Thebes.

A. They also apply via Kansas City.

Q. But they are the same via both?

A. Yes, sir. My Exhibit No. A-158 is presented and covers the situation with respect to divisions between Chicago Territory east of the Mississippi River and Texas common points via St. Louis Mo.-East St. Louis, Ill. I have shown in Block "A" the current joint through rates between Chicago Territory referred to and Texas common points, and how constructed, also the divisions currently in effect, which are 20 percent south thereof. These divisions were published originally in Southwestern Railway and Steamship Rate Committee Division Sheet No. 2, effective December 1, 1892, and have continued since that time (Tr. 5238-5239).

It will be observed that the Western Trunk Lines are receiving divisions in cents per 100 pounds on each class considerably in excess of the differentials used in the construction of the through rates over the base point, East St. Louis, and that the divisions received by the Southwestern Lines are as much less than their local rates between East St. Louis, Illinois, or St. Louis, Mo., and Texas common points as the spread between the divisions received by the Western Trunk Lines and the differentials. When the divisions were originally arranged, effective December 1, 1892, the first-class rate for example, from St. Louis, Mo., and East St. Louis, Ill., to Texas common points was $1.33, and the rates to and from Chicago were made on the differential scale of 20 cents. Subsequently the rates between St. Louis, East St. Louis and Texas Common points were advanced from $1.33 to $1.37, and later to $1.47, with relative advances in the other classes. The rates to and from [fol. 926] Chicago Territory, however, continued to be

made differentially by the use of the 20 cent differential scale, so that the Western Trunk Lines participated in the advance in the rates that was made from St. Louis, there being no spread in the differentials. The $1.47 scale between St. Louis, Mo., and East St. Louis, Ill., and Texas common points continued to the period of Federal control, following which there were two general advances and one general reduction (Tr. 5239).

There was no obligation on the part of the Southwestern Lines to accord the Western Trunk Lines any part of the advances that were made in the rates between St. Louis, East St. Louis and Texas common points; however, under the percentage arrangement, the Western Trunk Lines automatically received an increase. The Southwestern Lines maintain there should be no change in the percentages mentioned between Chicago Territory east of the Mississippi River and Texas common points via St. Louis, Mo.-East St. Louis, Ill., as the divisions are justified by an analysis of the situation. It will be observed from my Exhibit No. A-157 which is a map showing the boundaries of Chicago Territory, that the territory extends from northern Illinois immediately north of Chicago and westward to a short distance beyond East St. Louis and eastward from the latter point along the line immediately north of the lines of the B. & O. and Southern Rys. to the Illinois-Indiana state line, and verging a little beyond that line, proceeding in a northernly direction towards Chicago. To and from all of this territory the Western Trunk Lines receive 20 percent via St. Louis, Mo.-East St. Louis, Ill., in division of the rates to and from Texas common point Territory, which embraces the greater part of the state of Texas, to or from which there is any appreciable movement [fol. 927] of traffic. I have accordingly selected 18 representative points having a population of 10,000 or more located in Chicago Territory in Illinois that I believe are representative, because of their geographical location, and for the most part important as receiving and shipping points. There is shown the current local rates between those points and East St. Louis, Ill.-St. Louis, Mo. as published in Agent B. T. Jones' Tariff No. 256-B, I. C. C. No. 1481, effective February 1st, 1924, opposite which the average of the 10 class rates is shown between each point and East

St. Louis, Ill.-St. Louis, Mo., and the average of the 18 points which is 33.5 cents per 100 pounds (Tr. 5240-5241).

The average of the 10 class local rates between East St. Louis, Ill., St. Louis, Mo., and Texas common points is $1.276. Using these averages to arrive at percentages the result shows that the Western Trunk Lines would receive 20.8 percent and the Southwestern Lines 79.2 percent via East St. Louis, Ill.-St. Louis, Mo., which practically justifies the current division of 20 percent that has been in effect and is still in effect for the Western Trunk Lines. I have also shown the distances between the Illinois points referred to and East St. Louis, Ill., the average of which is 209 miles. I have also shown mileages between East St. Louis, Ill., and Texas points located in Texas common point Territory having a population of 10,000 or more. The average mileage between East St. Louis and Texas common points referred to is 773 miles. Applying the average of 209 miles for the Western Trunk Lines and the average for the Western Trunk Lines and 78.7 percent for the Southwestern Lines (Tr. 5241).

I have also taken the average of 209 miles for the Western Trunk Lines which is the average mileage between Illi-
[fol. 928] nois points in Chicago Territory and East St. Louis, Ill., having a population of 10,000 or more and the average of 803 miles for the Southwestern Lines between East St. Louis and Texas common points as shown in Mr. Parson's Exhibit No. A-77 covering 281 points located in Texas common point Territory, and it will be observed that the Western Trunk Lines would receive a division of 20.6 percent and the Southwestern Lines 79.4 percent. I might mention local rates between Illinois points and East St. Louis, Ill. carry the 5 percent advance made some years ago and also a 40 percent advance, so that eliminating those two features it would slightly change their percent on a rate prorate. These demonstrations in the opinion of the Southwestern Lines justify a division for the Western Trunk Lines no higher than the present division of 20 percent. Taking into consideration that Texas common point Territory is enormous, and as compared with Chicago Territory, the division of 20 per cent received by the Western Trunk Lines is in the opinion of the Southwestern Lines somewhat in excess of what the Western Trunk Lines ought

to receive. Consideration must also be taken into account that a considerable volume of the traffic handled between Chicago Territory and Texas common points involves the expense of bridge tolls between St. Louis, Mo., and East St. Louis, Ill., in which the Western Trunk Lines are not participating, and which is assumed entirely out of the division of 80 percent received by the Southwestern Lines. A considerable volume of the traffic crosses the Mississippi River at St. Louis on the inbound movement to and from Texas, and again crosses the Mississippi River on the outbound movement. I refer particularly to traffic handled over our East Side Lines all of which expense is taken care of out of the division of 80 percent received by the Southwestern Lines. This further in the opinion of the South-
[fol. 929] western Lines is justification for some modification in the division of 20 percent to a somewhat lower basis for the Western Trunk Lines (Tr. 5242-5243).

(The statement described by the Witness was thereupon received in evidence as Exhibit A-158.)

[fol. 930] I failed to make a statement to the examiner that I have overlooked including Joilet and Kankakee. In these lists are points in Illinois having a population of 10,000 or more. However, I am working out with the inclusion of those points, and on a rate prorate it would make it 20.9 per cent instead of 8 per cent and on the mileages it would make 30.9 per cent where I now have shown 20.6 per cent, and 21.6 per cent where I now have shown 21.3 per cent. It makes a slight variation there (Tr. 5243-5244).

Block "B" on Exhibit A-158 shows that the revenue over St. Louis is divided on practically a mileage pro rate by using those representative points and the average mileage. It is also practically on a rate prorate by using those points. That does not necessarily indicate that the relative rate level north and south of East St. Louis is substantially the same. It merely reflects a rate prorate by the use of the current rates as they are. The payment of the bridge tolls at St. Louis is the same with respect to this traffic as that which I have formerly treated (Tr. 5244).

There is an arrangement at East St. Louis whereby the traffic does not cross the River, where on the northbound

business the northern lines absorb the switching charge which is $4.95 per car currently and on southbound the Southwestern Lines absorb it. That is a reciprocal arrangement entered into some years ago when the Illinois part of our line was built. That refers, though, only to the Missouri Pacific and the Cotton Belt. That would not be true of the M. K. T., Frisco, or the Rock Island (Tr. 5245).

The mileages shown on this Exhibit are those shown on Mr. Parsons' Exhibit A-77. There may be one or two points that are not included in Mr. Parsons' exhibit. In that case, of course, I worked out the shortest mileage I could find. Mr. Parsons took an average of 803 miles for [fol. 931] 281 Texas points. I have shown in the next example 773 miles by taking the points in Texas having a population of 10,000 or more only. The mileage is the direct short lines (Tr. 5245-5246).

The distance tables of the various lines show the distance from East St. Louis to these various points in Texas. I have not attempted to make any comparison with the distance from St. Louis (Tr. 5246).

My Exhibit No. A-159 covers the divisions between Chicago Territory east of the Mississippi River and Texas common points via Cairo-Gale-Thebes, Ill. on which I have shown the current through rates and the differentials observed in their construction over the base point, East St. Louis, and there is also shown the current divisions which are 22 percent for the Western Trunk Lines and 78 percent for the Southwestern Lines, resulting in the specifics on each class as shown for the two groups of lines. The local rates between Cairo-Gale-Thebes, Ill. and Texas common points are the same as the local rates between East St. Louis, Ill.-St. Louis, Mo. and Texas common points, so that by reason of the division of 22 per cent the Southwestern Lines on traffic interchanged at Cairo-Gale-Thebes, Ill. make a greater shrink below their local rates than on the traffic when interchanged at St. Louis, Mo.-East St. Louis, Ill. I have also shown the local rates between representative points in Illinois located in Chicago Territory having a population of 10,000 or more and Cairo-Gale-Thebes and opposite each station the average of the 10 classes has been shown, and the total average of all the stations which is 39.3 cents per 100 pounds. I have also shown the average of the

10 class rates between Cairo-Gale-Thebes, Ill. and Texas common points which is $1.276. Using these averages as [fol. 932] factors the Western Trunk Lines would receive 23.5 percent and the Southwestern Lines 76.5 percent. Taking into consideration the extent of Texas common point Territory as compared with Chicago Territory east of the Mississippi River, the Southwestern Lines believe these demonstrations amply justify no greater allowance to the Western Trunk Lines than the current percentages. The same situation obtains via Cairo-Gale-Thebes, Ill. as previously pointed out via East St. Louis, in that the Western Trunk Lines have participated in the several advances made prior to government control in the rates between Cairo-Gale-Thebes, Ill. and Texas common points, although the Western Trunk Lines were not entitled to any part of those increases, but they did because percentages have been in effect which automatically brought about an increase in the proportions to the Western Trunk Lines (Tr. 5246-5247-5248).

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(The statement described by the Witness was thereupon received in evidence as Exhibit A-159.)

[fol. 933] Exhibit A-159 shows that the Western Trunk Lines are getting slightly less than a rate prorate under the present percentages. I don't have the mileage figures on these points for the reason that as Cairo is not a very important gateway on Texas traffic, I didn't go to the trouble of figuring them out at all. This 23½ percent that you have shown here would be slightly less if you would eliminate that 5 per cent of that 40 per cent advance out of the total rate. The local rates take the 5 per cent advance (Tr. 5248).

Mr. Behrle: The 5 per cent advance was applied to the former scale which was in effect. That was thrown aside in favor of this scale to which the 40 per cent increase was applied.

A. Well, the 5 per cent advance was applied in connection with the proportional rate.

Q. You are comparing the local rate?

A. These are local rates, yes. These rates here were advanced 40 per cent.

By Mr. Towner:

Q. Yes, they were advanced 40 per cent, but not the 5, so I am advised.

The Witness: That would change that slightly (Tr. 5249).

The Witness: (continuing): My Exhibit No. A-160 covers divisions between Milwaukee Territory and Texas common points via St. Louis, Mo.-East St. Louis, Ill. on which there is also shown the current through rates and the differentials over the base point, East St. Louis used in their construction as well as the rates between Chicago Territory and Texas common points, and the differentials used in their construction. It will be noted that the joint through rates between Milwaukee Territory and Texas common points are the same as the rates between Chicago Territory and [fol. 934] Texas common points because the differentials between Milwaukee Territory over the base point, East St. Louis are the same as the differentials Chicago Territory on East St. Louis, Ill. (Tr. 5249).

It has already been pointed out by Mr. Dana that some years ago the differentials, Milwaukee Territory over the base point, East St. Louis, were greater than the differentials between Chicago Territory and East St. Louis, and that with the elimination of the original Milwaukee differentials, the Chicago differentials were substituted therefor, which brings about the same joint through rates between Milwaukee Territory and Texas common points as between Chicago Territory and Texas common points. The Southwestern Lines with the exception of the Santa Fe and Rock Island have no rails beyond Mississippi or Missouri River Crossings, therefore St. Louis, Mo.-East St. Louis, Ill. in connection with this exhibit reflects the gateway between the Western Trunk Lines and the Southwestern Lines. I have shown the divisions in Block "C" received by the Western Trunk Lines between Milwaukee Territory and St. Louis, Mo.-East St. Louis, Ill. which are 20 percent on Classes 1, 2 and 3, and 22 percent on the remaining classes, resulting in the specifics on each class for the Western Trunk Lines and for the Southwestern Lines as indicated on this exhibit. It will be noted on this exhibit that the local rates between Milwaukee, Wis. and East St. Louis, Ill. cur-

rently are higher than the local rates between Chicago, Ill. and East St. Louis, Ill. The spread reflecting substantially the original spread in the differentials, Milwaukee Territory over the base point, East St. Louis on Texas traffic, notwithstanding which Milwaukee Territory currently carries the same differential basis as Chicago Territory (Tr. 5250).

The Southwestern Lines are receiving the same revenue on Classes 1, 2 and 3 as they receive to and from Chicago Territory, and on the remaining classes the Southwestern [fol. 935] Lines receive less than they do on Chicago Territory traffic because of the greater division received by the Western Trunk Lines, which were published for the first time, according to my records on December 1, 1892, in Southwestern Railway and Steamship Rate Committee Division Sheet No. 2. Later divisions were published via Chicago and other Illinois junction points in Chicago Territory on the basis of 15 percent for the lines between points in Milwaukee Territory and Chicago, however, for a long time the Southwestern Lines continued the original basis via St. Louis, Mo.-East St. Louis, Ill. of 20 percent on Classes 1, 2 and 3, and 22 percent on the remaining classes, and they still continue to apply that basis, except that within recent years the Missouri Pacific R. R. on southbound traffic to points on the I-G. N., T. & P. Ry. and Gulf Coast Lines in connection with the latter route via Kinder, La. and with the Southern Pacific Texas Lines only via Lake Charles, and St. Louis Southwestern Ry. on southbound business to points on their own lines in Texas, and the St. L-S.F. Ry. on all Texas southbound traffic have made individual arrangements by which the lines between Milwaukee Territory and Chicago and other Chicago junction points are allowed 15 percent of the Milwaukee-Texas common point rates, and the remainder is subdivided between Chicago, Ill., and other Illinois junction points with the Southwestern Lines via East St. Louis, Ill.-St. Louis, Mo. on the basis of 20 percent for the Western Trunk Lines and 80 per cent for the Southwestern Lines. This brings about a total division for the Western Trunk Lines of 32 percent from Milwaukee Territory to East St. Louis on Texas common point traffic. This is reflected in Block "F", and it will be observed from Block "G" that on 7 of the 10 classes the Western Trunk

Lines receive in excess of their current local rates between [fol. 936] Milwaukee Territory and East St. Louis and would by far exceed these figures if locally they carried the same rates from Milwaukee as they do from Chicago, which is not the case as to the through rates, for example on fourth-class, the divisions received by the Western Trunk Lines would exceed their local rates from Chicago by 12 cents per 100 pounds. It will also be observed from Block "G" that on Classes 1, 2 and 3, the Western Trunk Lines currently receive slightly less than their current local rates between Milwaukee Territory and East St. Louis, however, they receive currently in excess of the local rates between Chicago and East St. Louis. I have also shown in Block "H" the extent to which the divisions received currently by the Western Trunk Lines are in excess of the current differentials from Milwaukee Territory (Tr. 5251-5252).

The position of the Southwestern Lines on traffic interchanged at East St. Louis, Ill.-St. Louis, Mo. is that the Southwestern Lines should be accorded the same revenue on traffic to or from points located within Milwaukee Territory as they receive currently on traffic to or from points located within Chicago Territory. I have pointed out previously and presented my Exhibit No. A-154 showing that the Western Trunk Lines maintain higher local and proportional rates between Milwaukee Territory and East St. Louis, Ill.-St. Louis, Mo., Ohio River Crossings and Mississippi Valley points than to or from Chicago, and if there is any justification for maintaining higher rates to and from Milwaukee Territory than to or from Chicago Territory, to and from Mississippi River and Ohio River Crossings and Mississippi Valley points, the same justification is apparent on traffic to or from points in the entire Southwest, however, this is a matter for the Western Trunk Lines [fol. 937] to decide, and not the Southwestern Lines, and if it is proper and necessary to maintain the present Chicago differentials to and from Milwaukee Territory, the Southwestern Lines feel that they should properly be accorded Chicago revenue or the same as they originally received to and from points in Arkansas and Louisiana, the latter state to be covered later in my testimony (Tr. 5253).

The fifteen percent north of Chicago shown in paragraph 5 of Exhibit A-150 is the same fifteen percent that Witness

Dana referred to in his testimony. It applies only as far as shown in my statement and applied only on traffic interchanged at Chicago and Chicago junctions. It does not apply to Peoria, for example. If the Northwestern were to originate traffic in Milwaukee Territory and deliver it to the intermediate carrier at Peoria the 15 percent would not accrue north of East St. Louis (Tr. 5253-5254).

It don't apply via Peoria. There are, however, a number of Northern Illinois junction points, that are listed in the individual division sheets issued by the Missouri Pacific via which the 15 percent does apply. They are all located in Northern Illinois, however. They are junction points. In other words, between the Chicago Northwestern, or the Chicago, Milwaukee & St. Paul, and Soo Line, and the line operating southward from those Illinois junctions to East St. Louis, like the C. & A. and the C. & E. I., the Wabash, the C. B. & Q. and the Illinois Central. The traffic does not have to move through Chicago in all cases (Tr. 5254).

That is not an allowance created by the Missouri Pacific to meet the competitive situation of the direct line through Chicago to Kansas City. It has been a moot question for a good many years and settlements were continually in dispute. A great many letters were passing back and forth repeatedly to lines north of Chicago and these other junctions naturally expect to receive the 15 percent and that [fol. 938] left the lines between Chicago and East St. Louis with only 5 percent, or 7 percent, as the case may be, and they would continually point those situations out to us, so we finally decided that in connection with several of the lines in Texas that would assist us, we would joint in this 15 percent on southbound traffic, and to that extent we have joined. The local rates between Milwaukee, Wisconsin, and East St. Louis would invariably exceed the division north of East St. Louis. It is only by adding the 15 percent north of Chicago to get 32 percent. That produces a situation where the Western Trunk Lines division exceeds its local rate. Wherever there is a 32 percent division or compounded division applied, why, I have shown here in Block "G" the extent to which the revenues north of East St. Louis are more or less, as the case may be, than the local rate (Tr. 5255).

As previously pointed out the lines west of the Missouri River in the so-called old Trans-Missouri Territory, involving the States of Kansas, Nebraska, Oklahoma, Colorado and Utah receive Chicago revenue, also Southwest Missouri. The Southwestern Lines believe there is no justification whatever, and there never has been any justification, as a matter of fact why the Southwestern Lines should accord the Western Trunk Lines a greater division on Milwaukee traffic than on Chicago traffic, on the other hand, we believe there is ample justification for the position here taken, that the Southwestern Lines at all times should have received Chicago revenue as they should at the present time. Missouri Pacific Division Bases Nos. 6357-C, 7298 and 7105 were presented by Mr. Behrle in his Exhibit No. A-8, which publishes divisions via Chicago thence East St. Louis referred to (Tr. 5256).

[fol. 939] The statement described by the Witness was thereupon received in evidence as Exhibit A-160.)

[fol. 940] My Exhibit No. A-161 comprises two sheets and covers the divisions between points located in Chicago Territory west of the Mississippi River as described in the heading and Texas common points via St. Louis, Mo.-East St. Louis, Ill. I have shown thereon the through rates and the differentials used in their construction over the base point, East St. Louis, Ill., which are the same as to and from Chicago Territory east of the Mississippi River (Tr. 5256-5257).

In Block "B" I have shown the divisions currently in effect and the specifics received by the Western Trunk Lines and the Southwestern Lines on each class to and from points in Chicago Territory west of the Mississippi River embraced in the description in the heading. In other words, points in Chicago Territory west of the Mississippi River in Iowa, east of the M. & St. L. R. R. and north of the C. R. I. & P. Ry. Grinnell to Davenport, Iowa, excluding the latter two points, in other words, points east of the central part of Iowa. It will be noted that the Western Trunk Lines receive 22 percent and the Southwestern Lines 78 percent. Although the same joint through rates are carried between Chicago Territory west of the Mississippi River as to and from Chicago Territory east of the Mississippi

River, the Western Trunk Lines receive greater divisions than to or from Chicago Territory east of the Mississippi River. The higher divisions received by the Western Trunk Lines were evidently arranged on the assumption that the hauls between Chicago Territory west of the Mississippi River in Eastern Iowa were greater than the hauls between Chicago Territory east of the Mississippi River and East St. Louis, Ill.-St. Louis, Mo., however, the hauls do not exceed those from northern Illinois points located in Chicago Territory east of the Mississippi River (Tr. 5257).

[fol. 941] In the opinion of the Southwestern Lines, the Western Trunk Lines should receive no greater divisions to and from points in Chicago Territory west of the Mississippi River located in Eastern Iowa than to and from points in Chicago Territory east of the Mississippi River, because their hauls are slightly greater. As compared with the scope of Texas common point Territory, there seems to be no justification for an allowance to the Western Trunk Lines of a division greater than 20 percent the same as to and from points located in Chicago Territory east of the Mississippi River. I have also shown in Block "E" the shrink that is being made currently by the Southwestern Lines in their division below their current local rates, which it will be observed are very substantial, particularly on fourth-class, fifth-class and Class "A", which almost equal the shrink on the higher classes (Tr. 5258).

Sheet No. 2 of this exhibit shows the through rates and the divisions between Chicago Territory west of the Mississippi River as described in the heading and Texas common points via St. Louis, Mo.-East St. Louis, Ill. This embraces points in Western Iowa west of the territory described in Sheet No. 1. It will be noted that the through rates are on the same basis as to and from Chicago Territory east of the Mississippi River made by the use of the same differentials over the base point, East St. Louis. It will be observed from Block "B" that the Western Trunk Lines receive 25 percent, in other words, five percentage points more than to and from Chicago Territory east of the Mississippi River. This division was undoubtedly arranged because of the greater mileage between points in Chicago Territory east of the Mississippi River and East St. Louis, Ill. (Tr. 5258-5259).

I have shown the milages from two representative points in Block "C". I have also shown the shrink as being made [fol. 942] currently by the Southwestern Lines in their divisions as compared with their local rates between St. Louis, Mo.-East St. Louis, Ill., and Texas common points. The Southwestern Lines believe there is justification for the allowance of the same earnings to the Southwestern Lines as they receive on traffic to or from points located in Chicago Territory east of the Mississippi River, as the hauls of the Western Trunk Lines do not exceed the hauls to or from Milwaukee Territory. The joint through rates are made on differentials over the base point, East St. Louis, and as we believe there is justification for the Southwestern Lines receiving Chicago revenue on traffic to or from Milwaukee Territory, the same justification is apparent on traffic to or from points in Western Iowa located in Chicago Territory. The territory immediately north, namely Fox River Territory, carries currently higher differentials than to or from Chicago Territory in Iowa (Tr. 5259).

No divisions are carried between points in Chicago Territory west of the Mississippi River and Texas common points via Cairo-Gale-Thebes, Ill. Divisions should be published on the basis of allowing the Southwestern lines the same percentages as to and from Chicago Territory east of the Mississippi River.

The statement was thereupon received in evidence, marked, Exhibit No. A-161, Witness Sickel.

[fol. 943] The rates shown in Block "C" on page 1 are the local class rates between Dubuque and other points named and East St. Louis. The point I wanted to make particularly in connection with this exhibit is that by looking at this map it can be seen that Chicago territory west of the central part of Iowa enjoys the same differential basis as Chicago territory east of the central part. Also Illinois points. It seems to me that territory should be segregated. If any consideration is going to be given to conditions, it ought to be placed on some higher differential basis than the present differential basis. I think the group is entirely too large. I am in favor of the contraction of an origin or destination group which is as large as the present Chicago group. Take Arkansas, for example, that territory

west of the river is divided into four or five different groups. On Texas traffic you only have comparatively few groups, but you will find that same situation on Omaha-Davenport Territory by looking at that map (Tr. 5260-5261).

As to the Texas groups, possibly it should work north. It should also work south. We do not have a rate blanket north the same as we have south to Texas common points. The rate blanket north is not as large as our blanket in Texas. Section "C" on the third page of Exhibit A-161 indicates that there is no rate blanket from Iowa points to East St. Louis. There is no such blanket. I suppose you would continue to find variations in the rates by selecting different points, but notwithstanding the variation in the local rates between points in Western Iowa and East St. Louis, there is no variation in the differentials. The entire territory is embraced in one differential.

My Exhibit No. A-162 comprises eight sheets and covers the rates and the divisions between points located in [fol. 944] Omaha-Davenport Territory and Texas common points via St. Louis, Mo.-East St. Louis, Ill. (Tr. 5261-5262).

It will be observed that the joint through rates are constructed by the use of lower differentials than the differentials *than the differentials* used in constructing through rates to and from Chicago Territory east and west of the Mississippi River. This exhibit indicates varying divisions for the Western Trunk Lines and correspondingly for the Southwestern Lines. In connection with some of the sheets of this exhibit, it will be observed that the Southwestern Lines receive approximately the same revenue as to and from Chicago Territory east of the Mississippi River, but in a majority of the cases the Southwestern Lines receive less as indicated by the shrink in the divisions received by the Southwestern Lines below their local rates as compared with the shrink assumed by the Southwestern Lines to and from Chicago Territory east of the Mississippi River as indicated by my Exhibit No. A-159. It is doubtful at the present time that all points located in Omaha-Davenport Territory are covered by percentages, and if covered by they are difficult to find, because of the various items in the division sheet, and in many cases it is necessary to have a map to locate the descriptions in order to determine the

divisions. The entire Omaha-Davenport Territory should be covered by one percentage for the Western Trunk Lines and for the Southwestern Lines. The Southwestern Lines take the view that they should be accorded the same revenue as to and from Chicago Territory east of the Mississippi River (Tr. 5263).

It is true that there is a wide disparity in the hauls of the Western Trunk Lines between points in Omaha-Davenport Territory located in the eastern part of Iowa as com- [fol. 945] pared with the western part; however, this is offset by the fact that the mileages between points in Eastern Iowa and East St. Louis are lower than the mileages between Chicago, Ill. and East St. Louis, whereas, the mileages between points in Western Iowa and East St. Louis are greater than the mileage between Chicago and East St. Louis, so that the situation would be equalized. It is very desirable that the present complicated manner in which the divisions are published should be discontinued by the substitution of reasonable and simplified divisions to cover all points located in Omaha-Davenport Territory. The basis I have suggested will bring about that result if converted to percentages using the average of the 10 class divisions for the Southwestern Lines and the Western Trunk Lines, and convert them to percentages based on my proposal (Tr. 5264).

It will be observed that in some instances the Western Trunk Lines received higher percentages on traffic to and from Houston-Galveston rate points as to and from other Texas common points. This is probably due to the fact that some years ago the through rates to and from the so-called Houston-Galveston rate points were lower than to or from Texas common points, although located in Texas common point Territory, but this condition does not prevail at the present time except probably on some commodities, so that there is no justification for any difference in the divisions to and from Houston-Galveston rate points as to and from Texas common points (Tr. 5264-5265).

(The statement described by the witness was thereupon received in evidence as Exhibit A-162.)

[fol. 946] The differentials that I speak of are not the same things that Mr. Dana called arbitraries. I think he had reference to points for example in Fox River Territory,

where they are made arbitraries of Milwaukee. The differentials to which I refer are really differentials.

We have in some few instances arbitrary amounts that are fixed north of the gateway and added to the local rate in order to create the through rate; such as the rates on potatoes, in which case from potato shipping points they have a specific arbitrary over Milwaukee or Chicago, both Mr. Dana's arbitraries and my differentials are amounts north of the junction added to the local rate south to create the through rate (Tr. 5265-5266).

My Exhibit No. A-163 covers divisions from points in St. Louis Territory, namely, Quincy, Ill., West Quincy and Helton, Mo. to Texas common points via East St. Louis, Ill.-St. Louis, Mo. It will be observed the Western Trunk Lines receive 17 percent and the Southwestern Lines 83 percent, and I have shown opposite the result in divisions on each class in cents per 100 pounds for both groups of lines. It will be observed that to Texas common points as indicated by Block "B" the Western Trunk Lines receive 17 percent, and that to Houston-Galveston, Texas rate points, the Western Trunk Lines receive 18 per cent as shown in Block "F", although the same joint through rates are in effect currently to Houston-Galveston rate points as to Texas common points. This has been shown and can be observed from a comparison of the rates shown in Block "A" with Block "E". It will be observed that the divisions apply between, whereas, the St. Louis rates from the three points apply only southbound. On northbound traffic the Omaha-Davenport rates apply, so that the divi- [fol. 947] sions should apply only southbound leaving the Omaha-Davenport Territory divisions as proposed apply northbound. The distances between Quincy, Ill., West Quincy, Mo. and Helton, Mo. and East St. Louis are shown in Block "C," the average of which is 130 miles, and using 803 miles as the average distance between East St. Louis and Texas common points as shown in Mr. Parson's Exhibit No. A-77, the Western Trunk Lines on an actual mileage prorate would receive only 14 percent. I merely point this out as justification for no higher divisions than the Western Trunk Lines currently receive, except that the Suthwestern Lines believe the divisions should be made uniformly 17 per cent, eliminating the 18 per cent division to

the Houston-Galveston rate points for reasons already stated. The divisions should be made to apply southbound only, and on northbound business the Southwestern Lines should be accorded the same revenue as to Chicago Territory east of the Mississippi River, because on northbound traffic the three points referred to are located in Omaha-Davenport Territory, and not in St. Louis Territory (Tr. 5266-5267).

(The statement described by the witness was thereupon received in evidence as Exhibit A-163.)

[fol. 948] By using the average mileages from East St. Louis to 181 Texas common points shown in Mr. Parsons' Exhibit A-77, we would get an actual prorate 14 per cent north to those three points and by using the present percentages, we would get 17 per cent, that is 3 per cent more than the mileage prorate. I don't know whether a rate prorate would be higher than 17 per cent. I don't think I tested it out. The exhibit doesn't show, it may result in a higher differential. I don't advocate any change in this here, I merely wanted to point out the present percentages. The points are practically of no consequence, I take it, and I would not expect any line to accept 14 per cent. I think 17 per cent is little enough, as a matter of fact. On short haul traffic probably it ought to be a little more (Tr. 5267-5268).

My Exhibit No. A-164 comprises three sheets and is presented to further indicate the reasonableness or unreasonableness of the current basis of divisions applicable between points within Western Trunk Line Territory and Texas common points via East St. Louis, Ill.-St. Louis, Mo. The first page covers a list of 49 points located within Western Trunk Line Territory in the states of Minnesota, Wisconsin, Iowa, Illinois and Missouri, on which have been shown in Column 4 the present divisions in percentages and the average, which is 23.2 per cent for the Western Trunk Lines. The divisions in cents per 100 pounds are also shown opposite each station, based on the average of the through 10 class rates, and the average from all the points, which is 34.46 cents. The proportions south of East St. Louis have similarly been shown. In column 8 the average of the 10 class rates from East St. Louis to Texas common points. In Column 10 percentages have been

shown for the Western Trunk Lines, and in Column 12 percentages for the Southwestern Lines opposite each point, based on the average of the 10 class rates as factors. It will be observed that the average from all of the points [fol. 949] shown is 24.2 percent for the Western Trunk Lines, and their division in cents per 100 pounds on that basis is 35.63 cents, which practically confirms the reasonableness of the current divisions to and from all points within Western Trunk Line Territory on the average. This of course is based upon the divisions as published by the Southwestern Lines in Southwestern Lines Division Sheet No. 40 (Tr. 5268-5269).

On sheet 2 of this exhibit, 19 points located within Western Trunk Line Territory taking Milwaukee rates or arbitraries higher have been shown, also in Column 4 the divisions received by the Western Trunk Lines between the points of origin shown and East St. Louis, Ill. based on allowing the Western Trunk Lines 15 per cent from Milwaukee Territory to Chicago or other Chicago junction points, and 20 percent of the remainder between Chicago or Chicago junction points and East St. Louis, or a total of 32 percent plus the arbitraries over Milwaukee from such points as carry arbitraries over Milwaukee Territory. The percentages resulting from that basis are shown in Column 4 based on the average of the 10 class rates. In Column 5 the divisions in cents per 100 pounds are shown for the Western Trunk Lines based on the average of the 10 classes resulting from the percentages shown in Column 4, the average of which is 52.9 cents per 100 pounds from all points shown on this sheet. In Column 6 there is shown the average of the local 10 class rates between the points of origin shown and East St. Louis, and the average from all the points, which is 44 cents, indicating that the divisions received by the Western Trunk Lines on the basis indicated exceed the local rates on the average, origin points to East St. Louis, Ill. (Tr. 5269-5270).

[fol. 950] In Column 7 there is shown the percentage proportion the current division is of the average local 10 class rates, and it will be observed that the divisions received by the Western Trunk Lines exceed their local rates from 104.6 percent to 130.2 percent via Peoria, Ill. the situation is similar except that the spread in excess of the local rates

is less. This sheet has particular reference to traffic from Milwaukee and Fox River Territories and Texas common points handled via Chicago, Ill. and other Chicago junction points and East St. Louis, Ill., to indicate that to the extent to which this basis of divisions is currently applied by the Southwestern Lines as previously described, the divisions for the Western Trunk Lines are excessive, because in every instance shown on this sheet, the Western Trunk Lines receive in excess of their local rates, and even on the basis of their local rates, the Western Trunk Lines would be receiving in excess of a reasonable division, because the Southwestern Lines would be assuming the difference between the combinations over East St. Louis and the through rates made by use of the differentials, which are decidedly less than the local rates. This further confirms what I have previously said that on traffic from or to Milwaukee Territory and Fox River Territory, the Southwestern Lines should receive the same revenue as on similar traffic from or to Chicago. The proportions on that basis accruing to the Western Trunk Lines should be a matter of subdivision between themselves as are the proportions accruing to the Southwestern Lines. The proportions south of East St. Louis on Texas traffic is a matter of subdivision between the lines operating from the Mississippi River and their Texas connections, and the Western Trunk Lines do not join the Southwestern Lines in the subdivision of the proportions south of East St. Louis, nor has any considera- [fol. 951] tion been given that feature in arranging the divisions in the past, so that the situation on both sides of the Mississippi River in that respect should be alike, the Southwestern Lines as in the past having taken care of their own subdivision matters, and the Western Trunk Lines should do the same, otherwise divisional disputes will increase instead of decrease (Tr. 5270-5271-5272).

Sheet No. 3 of this exhibit is a statement covering moving commodities from various points in Milwaukee and Fox River Territories to Texas common points together with the current joint through rates. On the basis of allowing the Western Trunk Lines 15 per cent between Milwaukee Territory and Chicago or Chicago junctions, in division of the through rates from Milwaukee Territory plus the arbitraries over Milwaukee Territory where they

exist are shown in Column 5 reduced to percentages, and the divisions in cents per 100 pounds accruing to the Western Trunk Lines north of Chicago on that basis are shown in Column 6 opposite each station as well as the average from all the points, which is 24.1 cents. In Column 7 there is shown the local rates from the origin points to Chicago, and in Column 8 what the percentage proportion the current division is of the local rate, which indicates that the Western Trunk Lines north of Chicago on a majority of the commodities shown on this sheet receive considerably in excess of their local rates to Chicago. On the same commodities similar information has been shown via East St. Louis, Ill., based on the compounded percentages over Chicago, and it will be seen from Columns 10 and 11 that on the average, the Western Trunk Lines receive 7.7 cents per 100 pounds in excess of their local rates (Tr. 5272).

[fol. 952] This is also true of the divisions via the Peoria Gateway where the divisions are compounded, which further goes to indicate that the compounded division- should be eliminated entirely to the extent to which they are now recognized by the Southwestern Lines by individual arrangements previously referred to, and that the Southwestern Lines on all traffic from or to Milwaukee and Fox River Territories should be accorded Chicago revenue (Tr. 5273).

(The statement described by the witness was thereupon received in evidence as Exhibit A-164.)

[fol. 953] In making these showings, we picked out moving commodities from the territory whenever they are peculiar to those particular origin points shown. Sheet 3 of the exhibit is confined to commodities only. The exhibits show class rates in many instances, because I am suggesting that to cure the present evils. If after arriving at divisions that specifics based on the average of the 10 class divisions to which group of lines you will convert them to percentages and apply them to the division of all through commodity rates, why, one group of lines won't be receiving our class division and the other group doing all the shrinking. You will have a more equitable shrinking be-

tween the class rate and the through commodity rate, which is not the case sometimes at the present time. Now, on Texas traffic you have a division of 20 percent via East St. Louis that applies on all classes of commodities with the exception of lumber and a few others. When you get to Arkansas you don't have that situation. On a division of the majority of the carload commodity rates the Western Trunk Lines receive class specifics the same as they do in the division of a through class rate. That is not right, in our opinion, because that makes the Southwestern Lines shrink the same amount in cents per 100 pounds below their commodity rate as they shrink below their through class rate. That is the point that I am trying to cure. The Southwestern Lines shrink as much in the division of through commodity rate as they shrink in the division of through class rate. Northern lines do not do the same thing. They would get their class specific unless there was a commodity specific published in that division sheet and unless a commodity division sheet was published (Tr. 5273-5274-5275).

Referring to page 3, of Exhibit 164, that is not a case where the class specifics apply to the commodity rates. You don't have that situation on Texas traffic. On Texas traffic, for example, you have from Chicago territory 20 percent. [fol. 954] That applies in the division of all rates so that in that case both groups of lines shrink their revenues by those percentages and that is what I am trying to suggest for Arkansas in place of the specifics. From sheet 3 I am trying to point out that as a result of these compounded divisions of Chicago, the lines north of East St. Louis generally receive on the average more than their local rates between their points of origin and East St. Louis average (Tr. 5275).

On Sheet 3 of the exhibit Batavia is the only example of compounded divisions. By the use of 15 per cent, the line north of Chicago receives 19.4 percent per hundred pounds. The local division is shown in Column 90, thirty two percent. Those are compounded divisions. The Southwestern Lines on this traffic do not restrict the lines north of East St. Louis to their local rates as maxima. In other words, the local rates shown on page 3 do not operate to limit the

revenue received by the Northern Lines. That question came up some time ago and we took the view that the lines north of East St. Louis should be limited to the local rate, but we changed our view because the lines operating between Chicago and East St. Louis objected to it. Our objection was based upon the fact that the lines north of Chicago required 15 percent of the through rate and would not accept any division of the local rate to East St. Louis (Tr. 5276-5277).

I am in sympathy with the provision in the division sheets that no line should receive in excess of its local rates. Now, that is as far as I can go. In other words, getting down to a practical basis, why, I think divisions of that line should be eliminated where you have percentages. If you don't eliminate it your percentages are not worth anything. You might just as well discard them, because in the division of absolutely every through rate you have got to test out the divisions against each rate to determine whether or not one group or the other group receive in excess of their local [fol. 955] rates. Now, where there are divisions that result generally in one or the other group of lines receiving in excess of their local rates to a considerable extent, then I say there is something wrong with those percentages and they should be changed so as not to bring about a general result of that kind. And then when that condition is brought about, then I say eliminate those provisions, and I think the accounting departments of all the lines will be glad to see that brought about (Tr. 5277-5278).

Page 1 of Exhibit A-164 shows that the average division on the class basis is 23.2 percent to the lines north as compared with 24.2 percent which it would get if the divisions were based upon a rate prorate of the first 10 classes. It is my idea that a division should be fixed somewhat along that line than that applied to the through commodity rates and let the chips fall where they may. My idea would be that if one line or the other got in excess of its local rate to let that go.

Now, of course, if we divide that in practically all cases either one or the other group of lines, receive generally in excess of the local rates, then I say there is something wrong with those percentages and some modification should

be made so as to more nearly bring about an equalization of the distribution (Tr. 5278).

Referring to pages 2 and 3 of that exhibit, the arbitraries shown are the arbitraries that Mr. Dana spoke of in connection with the Texas traffic to Kansas City, Marinette for example, shown in column 4 shows a percentage of 41.6, Marinette has an arbitrary, so-called, over Milwaukee territory and that has been used and is reflected in this 41.6 percent. It is true that these arbitraries actually are not divided under the division sheets (Tr. 5279).

[fol. 956] My Exhibit No. A-165 covers rates and divisions on Asphalt, imported through Texas Gulf Ports. I have shown on this sheet the through rates from Texas Gulf Ports to Peoria, Chicago, Ill., Milwaukee, Wis. and St. Paul, Minn. which are the same as the rates on Asphalt imported through the port of New Orleans. In division of the rates from New Orleans, the Western Trunk Lines receive 30 percent to Peoria first deducting Mississippi River transfer of 3 cents per 100 pounds via East St. Louis, Ill., to Chicago, Ill., the Western Trunk Lines receive 33 percent, first deducting Mississippi River transfer 3 cents per 100 pounds via East St. Louis, and 38 percent via Thebes first deducting Mississippi River transfer 3 cents, to Milwaukee via East St. Louis, the lines north of Chicago receive 10 percent of the through rates, the remainder dividing on the Chicago basis mentioned, and on St. Paul traffic via East St. Louis the Western Trunk Lines receive 48 percent first deducting Mississippi River transfer 3 cents per 100 pounds. The result in divisions are shown for the Western Trunk Lines, and for the lines south of East St. Louis or Thebes, Ill. The position taken by some of the Western Trunk Lines is that on traffic imported through Texas Gulf Ports because the rates are the same as on traffic imported through the port of New Orleans, that the Western Trunk Lines should receive New Orleans revenue. I have also shown on this exhibit the Texas percentages currently in effect and the result in divisions in cents per 100 pounds. I have shown on this exhibit the mileage between New Orleans and East St. Louis, Ill. via the Missouri Pacific R. R., which is not the short line mileage, the short line mileage between New Orleans and East St. Louis, Ill. is via the Illinois Central R. R. and the divisions are involved only inso-

far as the west side lines are concerned and not to and from New Orleans, La. (Tr. 5279-5280).

[fol. 957] The position of the Southwestern Lines is that the Texas percentages should be applied on traffic from Texas Gulf Ports locally. The Western Trunk Lines probably would not require New Orleans revenue in the event the New Orleans percentages accorded them less revenue than the Texas percentages, but because the New Orleans percentages accord the Western Trunk Lines greater revenue, and because the rates between Texas and Louisiana Ports are generally equalized on import traffic, the position of some of the Western Trunk Lines is that they require New Orleans revenue apparently for no sound reason (Tr. 5280-5281).

On the other hand, on export traffic handled through the port of New Orleans via the west side lines, if the position of the Western Trunk Lines is consistent on import traffic handled through Texas Guf Ports then the west side lines on export traffic handled through the port of New Orleans might as consistently say that they will require the same revenue as they receive on export traffic handled through Texas Gulf Ports. This would be a reversal of the situation. However, the Southwestern Lines do not take that position. They do however, take the position that whatever the percentages are to and from Texas common points regardless of whether it is import or export traffic, and regardless of the rates, that Texas percentages should be applied the same as the west side lines take with respect to traffic exported through New Orleans as compared with Texas Gulf Ports. If for example the Pacific Coast terminal rate applied as maximum on Texas traffic, and it is possible this situation will come about at no distant date on some commodities, I am wondering if the position of the Western Trunk Lines in this instance is maintained then the presumption would be that the Western Trunk Lines would require Pacific Coast terminal Revenue, or 11 [fol. 958] percent between Chicago and East St. Louis. It is hardly likely that the Western Trunk Lines will take that position, but would apply the Texas percentages. This is merely an illustration, but if may at some time become a serious question. It is the same to Chicago as to Peoria territory on this commodity from New Orleans (Tr. 5281-5282).

I believe that the Galveston Lines on import traffic through East St. Louis and C. F. A. territory use the New Orleans percents. I think those divisions were arranged during the period of Government Control. The Railroad Administration authorized publication of divisions on that basis. Prior to that time the Central freight Association lines required their old locals which the Southwestern Lines did not think was proper. The Railroad Administration was responsible for the equalization of Galveston versus New Orleans (Tr. 5282).

As to the low rate per ton mile to the lines north of East St. Louis under some of these divisions the rates of course are low. Now, the difficulty in the past has been because of that fact commodities are having continually special treatment. Now, the Southwestern Lines feel this way about it, that if you have a general line of percentages between two territories, why, in view of the volume of the traffic that is moved it is necessary that all lines should take the bitter with the sweet. We have to do the same thing frequently. We haul traffic for very very low earnings, sometimes lower than that for longer hauls, but taken as a whole, why, we take the bitter with the sweet, and it seems to me that is highly necessary because if we don't, every time a commodity rate is established and a special treatment is accorded that in the way of divisions, why, there will be no ending of the process of this matter of arranging divisions. That has been our trouble in the past. [fol. 959] I don't recall whether or not there are higher rates on that traffic coming from Galveston to C. F. A. territory than to Chicago. I suppose there may be some points immediately adjacent to the Illinois-Indiana state line that may be comparable with the rates to Chicago (Tr. 5283-5284).

My Exhibit No. A-166 covers divisions on cheese from Wisconsin Group including Milwaukee, Wis. to Dallas, Texas via East St. Louis. The rates as shown on this exhibit from Wisconsin Group, Chicago Group, also St. Louis, Mo.-East St. Louis, Ill., are published in F. A. Leland's Tariff No. 137, I. C. C. No. 1769, and 137-A, I. C. C. No. 1799, which rates were authorized by the Interstate Commerce Commission in I. C. C. Docket No. 15880. The purpose of presenting this exhibit is to indicate the spread

in the joint through rates, Wisconsin Group over the Chicago Group, which is 18 cents per 100 pounds. The rates from St. Louis to all three of those groups were fixed by the Commission (Tr. 5284).

The Wisconsin Group includes Milwaukee, Wisconsin. Prior to the publication of the Commission-made rates Milwaukee Territory enjoyed the same differential over the base point, East St. Louis as Chicago Territory, but the Interstate Commerce Commission have made a substantial spread in the rates, Wisconsin Group over Chicago. It is true that Wisconsin Group includes points north of the so-called Milwaukee Territory, but it also includes points that are located in Milwaukee Territory, including Milwaukee, Wisc., and this further justifies the position of the Southwestern Lines that on traffic to and from Milwaukee and Fox River territories, the Southwestern Lines are entitled to Chicago revenue (Tr. 5284-5285).

(The statements described by the witness were thereupon received in evidence as Exhibits A-165 and A-166 respectively.)

[fol. 960] On the fourth block in Exhibit A-166 the division south of East St. Louis is less than the local rate by 2 cents. That should be inserted. That brings out a point I wanted to make that the Milwaukee Group enjoye a spread of 18 cents over Chicago. Now, the Southwestern Lines are not entitled to any part of that 18 cents and by the use of this division of 22 percent north and 78 percent south we would receive 78 percent of that 18 cent spread. Now, that is not right. That is the reason I am coming down to the point that on Milwaukee Territory there should be a spread in the rates over Chicago, as there originally was and the lines north of Chicago should receive that spread. Now, the Commission here have made these rates from the Milwaukee Group an 18 cent spread over Chicago and the Southwestern Lines are not entitled to any part of that; they are entitled to Chicago revenue and no more. But by the use of this present basis of the divisions we would receive Chicago revenue. My proposed divisions would operate to increase the Northern Lines divisions from 45.3 to 45.4 cents.

The proposed divisions in that block there shows what the Southwestern Lines would receive on the basis of Chi-

cago revenue. That would be 80 per cent of the Chicago rate, which would be 109.6 cents and the lines north would receive 45.4 cents, in which is reflected this 18 cent spread Milwaukee over Chicago (Tr. 5285-5286).

I now desire to take up the subject of divisions between points in Western Trunk Line territory and Louisiana points via St. Louis, Mo.-East St. Louis, Ill., also via Cairo-Gale-Thebes, Ill. It is necessary to outline, as briefly as possible the history of the rates and divisions as originally established. This, I will attempt to do as briefly as I can. I will first dwell upon the rate feature. Effective July 10th, 1904, Missouri Pacific Railway Company Tariff No. 5288, I. C. C. No. 6695, through rates were [fol. 961] established between St. Louis, Mo. and East St. Louis, Ill. and Louisiana points on the Missouri Pacific Railway Company as follows (Tr. 5286):

To and from points on the main line of the Missouri Pacific Railway Company, immediately south of the Arkansas border, the through rates were somewhat less than the rates to and from Texas common points. For example, the rates between St. Louis, Mo. and East St. Louis, Ill. and the first station south of the Arkansas border, viz. Neimeyer, La., the rates were as follows: Class 1, $1.13; 2, .95; 3, .80; 4, .60; 5, .46; A, .44; B, .39; C, .33; D, .28; E, .22. The rates scaled upward to Connor's Spur, La. the last station immediately north of Monroe, La., the rates to and from St. Louis, Mo. and East St. Louis being as follows: Class 1, $1.27; 2, $1.11; 3, .97; 4, .84; 5, .61; A, .68; B, .58; C, .52; D, .46; E, .39. The rates to and from Monroe, La. at that time were carried in Missouri Pacific Railway Company Tariff No. 4807, I. C. C. No. 5336, the rates to and from St. Louis, Mo. and East St. Louis being as follows: Class 1, $1.17; 2, $1.01, 3, .87; 4, .74; 5, .56; A, .63; B, .53; C, .47; D, .47; E, 34. The rates between St. Louis, Mo. and East St. Louis, Ill. and points in Louisiana on the main line of the Missouri Pacific Railway Company south of Monroe, La. to, but not including Alexandria, La., at that time, were published in Missouri Pacific Railway Company Tariff No. 5288, I. C. C. No. 6695, and were the same as the Texas common point rates, which, for the purpose of record were as follows: Class 1, $1.37; 2, $1.21; 3, $1.04; 4, .96; 5, .75; A, .79; B, .70; C, .58; D, .46; E, .39 (Tr. 5287-5288).

The rates between St. Louis and East St. Louis, Ill. and Alexandria, La., effective July 1st, 1903, were published in Missouri Pacific Company Tariff No. 4807, I. C. C. 5336 and were the same as quoted above to and from Monroe, La. The rates from St. Louis, Mo. and East St. Louis, Ill. and [fol. 962] Texas common points, effective May 16th, 1904, were published in Southwestern Freight Committee Tariff No. 1-V, I. C. C. No. 351, and were as follows: Class 1, $1.37; 2, $1.21; 3, $1.04; 4, .96; 5, .75; A, .79; B, .70; C, .58; D, .46; E, 39. Joint through rates between Chicago territory, Milwaukee Territory and Fox River territory, were made by the use of the following differentials over the base point East St. Louis, Ill.-St. Louis, Mo. The differentials to and from Chicago Territory were as follows: Class 1, $0.20; 2, .16; 3, .12; 4, .10; 5, .07; A, .09; B, .08; C, .07; D, .06; E, .05. To and from Milwaukee Territory the same differentials applied as described above to and from Chicago Territory. The Fox River differentials were as follows: Class 1, $0.40; 2, .31; 3, .24; 4, .20; 5, .15; A, .16½; B, .14; C, .12; D, .11; E, .10. Summing up the situation, it will be observed that with the exception of stations on Mo. Pac. main line north of Monroe, La., including Monroe and Alexandria, La., the through rates on the dates given above were the same as to and from Texas common points (Tr. 5288).

The above is as far back as I have been able to locate in individual tariffs covering the particular points in Louisiana described. Between St. Louis, Mo. and East St. Louis, Ill. and points on the Missouri Pacific Railway Company in Louisiana, Vaughn to Sycamore, except Collinston, Rayville, Ferriday and Concordia, in other words, the old New Orleans & Northwestern Railway division of the Missouri Pacific Railway Company, effective November 10th, 1904, in Missouri Pacific Railway Company Tariff No. 5324, I. C. C. No. 6940, the rates then in effect were lower than the Texas common point rates. The rates fluctuated, but in no case were the rates as high as Texas common point rates. For example, the rates to and from Vaughn, La. were as follows: Class 1, $1.22; 2, $1.06; 3, .92; 4, .74; 5, .56; A, .63; B, .53; C, .46; D, .41; E, .34. The next change found was at Oak Ridge, La. to and from which the rates were as fol- [fol. 963] lows: Class 1, $1.27; 2, $1.11; 3, .96; 4, .75; 5, .61;

A, .66; B, .57; C, .46; D, .41; E, .38. The above rates continued as far south as Burke, La., to and from which the rates were as follows: Class 1, $1.32; 2, $1.13; 3, $1.01; 4, .75; 5, .64; A, .66; B, .57; C, .46; D, .41; E, .38. The above rates continued to Gilbert, La.; south thereof the rates fluctuated, the majority being slightly lower than described above (Tr. 5289).

To and from Rayville, La. the rates at that time which were carried in Southern Freight Association Tariff No. 18-I, I. C. C. No. 200, were as follows: Class 1, $1.08; 2, .95; 3, .82; 4, .73; 5, .59; A, .60; B, .51; C, .46; D, .41; E, .35. In Southern Freight Association Tariff No. 1-N, I. C. C. No. 230, effective August 31st, 1904, the through rates between St. Louis, Mo. and East St. Louis, Ill. and Ferriday, La. were as follows: Class 1, $0.90; 2, .75; 3, .65; 4, .50; 5, .40; 6, .35; A, .25; B, .25; C, 25; D, .20; E, .28; H, .57. The rates to and from Ferriday, La. were subject to Southern Freight Association Classification and Exceptions. It also developed at that time, that in Southern Freight Association Tariff No. 1-N, I. C. C. No. 230, effective August 31st, 1904, through rates were carried between St. Louis, Mo. and East St. Louis, Ill. and points in Louisiana on the Missouri Pacific Railway Company division south of the Arkansas border in Louisiana to and including Ferriday, La. That tariff provided for the application of the New Orleans rates. In other words, the rates quoted above to and from Ferriday, La. are the New Orleans rates. The through rates to and from Chicago, Milwaukee and Fox River territories were on the standard differential basis, in other words, to and from Chicago and Milwaukee territories, the 20 cent differential scale was in effect and to and from Fox River the 40 cent scale was in effect (Tr. 5290).

[fol. 964] Between St. Louis, Mo. and East St. Louis, Ill. and points on the Watkins Division of the Missouri Pacific Railway Company, which covers stations south of Alexandria, La. to and including Lake Charles, La. the through rates were published in Missouri Pacific Railway Company Tariff No. 4041, I. C. C. No. 3711, effective Feb. 1st, 1901, in which provision was made that the same rates would apply as to and from Longview, Tex., the latter being a Texas common point, taking Texas common point rates. The exception was Lake Charles, La. to and from which the

rates were published in Louisiana Freight Committee Tariff No. 1, issued by R. D. Berrey, I. C. C. No. 1, effective October 25th, 1905, and were as follows, to and from St. Louis, Mo. and East St. Louis, Ill.: Class 1, $1.30; 2, $1.09; 3, .90; 4, .75; 5, .60; A, .53; B, .51; C, .45; D, .38; E, .35 (Tr. 5291).

It will be observed the rates to and from Lake Charles were slightly lower than the rates to and from Texas common points. I have also developed the situation with respect to rates to and from Louisiana stations on the Texas and Pacific Railway. In Missouri Pacific Railway Company Tariff No. 4041, I. C. C. No. 3711, effective Feb. 1st, 1901, provision was made that through rates to and from points on the Texas and Pacific Railway in Louisiana would be the same as to or from Longview, Tex., the latter being a Texas common point, except that to and from stations Addis and [illegible]st, including points on the Port Allen, Lafourche and Napoleonville Branches, it was provided that if the lower rates would result by application of Southern Freight Association Tariff No. 1-I, I. C. C. No. 114, and Texas & Pacific Railway Tariff No. 4155-H, I. C. C. 733, the latter would apply. The through rates to and from Chicago, Mil- [fol. 965] waukee and Fox River territories were made by the use of the standard differential basis, or the 20 cent differential scale for Chicago, and Milwaukee territories, and the 40 cent scale for the Fox River territory (Tr. 5291-5292).

I next covered the situation with respect to rates to and from Southern Pacific Lines in Louisiana as far back as I could locate tariffs. Effective August 25th, 1903 in through freight Tariff No. 16-G, issued by S. Frink, which bears Missouri Pacific Railway Company and St. Louis Iron Mountain & Southern Tariff No. 4886, I. C. C. No. 195, through rates were published from St. Louis, Mo. and East St. Louis, Ill., the rates scaled upward beginning at the first point beyond the switching limits of New Orleans, but the through rates in all cases were less than the rates to or from Texas common points. The exception was joint track stations between Alexandria and Moreland, not including Alexandria to which the through rates were the same as to Texas common points, the rates to the joint track stations referred to being carried at that time, in Louisiana Freight Committee Tariff No. 1, I. C. C. No. 1, issued by R. D.

Berrey effective October 25th, 1905. The through rates from Chicago, Milwaukee and Fox River territories were made over the base point St. Louis, Mo.-East St. Louis, Ill. by the use of 20 cent differential scale from Chicago and Milwaukee territories, and the 40 cent scale from Fox River territory. I have been unable to develop the situation with respect to the rates covering Louisiana points on other lines, but I have covered the greater part of Louisiana as it existed at that time by making a survey of the rates to and from points on the Missouri Pacific Railway Company, Texas and Pacific Railway Co. and Southern Pacific Lines in Louisiana (Tr. 5292-5293).

[fol. 966] I will attempt to give, as briefly as possible, the original divisional arrangements. My Exhibit No. A-167 comprises photostatic copies of Missouri Pacific Railway Company, St. Louis Iron Mountain Southern Railway Company Percentage Sheet No. 210, Percentage Sheet No. 353, Percentage Sheet 353-A, Percentage Sheet No. 360 and Amendments 2 and 3, Percentage Sheet 372 and Amendment No. 7, Percentage Sheet 507 and Amendment No. 3 and Percentage Sheet 819, also Division Basis No. 930-C, the latter two issues being the current publications of the Missouri Pacific Railroad Company. It will be observed that percentages were originally established in Percentage Sheet No. 210, effective December 1, 1892, between Chicago, Ill., Milwaukee, Wis., and territory, and Shreveport, La., via East St. Louis, Ill. and via Cairo, Ill. The percentages between Chicago, Ill. and Shreveport, La. via East St. Louis, as then published, were 25 per cent to the Western Trunk Lines on all of the classes and that on business from Milwaukee, Wis. the Missouri Pacific Railroad received the same revenue as on Chicago, Ill. traffic. On commodities the same basis was applied. Between Chicago, Ill. and Shreveport, La. via Cairo, Ill., the Western Trunk Lines received in addition to 25 per cent applicable via East St. Louis, Ill., differentials of 3 cents per one hundred pounds on the first four classes and 2 cents per one hundred pounds on the remaining classes in addition to the revenue between Chicago, Ill. and East St. Louis, Ill. It will be observed on Milwaukee, Wis. traffic that the Missouri Pacific Railroad received Chicago, Ill. revenue via both gateways (Tr. 5293-5294).

Missouri Pacific Railway Company percentage sheet No. 353-A, effective November 17, 1896, cancelled Percentage Sheet No. 353 and continued the same basis of divisions as [fol. 967] in Percentage Sheet No. 353 except that Fox River District was added on basis of allowing the Missouri Pacific Railroad the same revenue as on Chicago, Ill. traffic. Missouri Pacific Railway Company Percentage Sheet No. 360, effective November 28, 1896, published percentages between Chicago, Ill., Milwaukee, Wis., and Fox River District and Shreveport, La. via East St. Louis, Ill. and Cairo, Ill. It will be observed that this percentage sheet was not limited to the C. B. & Q. and C. P. & St. L. Railroads, but applied in connection with all Western Trunk Lines on account of there being no exceptions. The percentages from Chicago, Ill. to Shreveport, La., via East St. Louis, Ill., were published on the basis of 30 per cent to the Western Trunk Lines and that on traffic from Milwaukee, Wis. and Fox River District and points in their respective territories, then Missouri Pacific Railroad received the same revenue as on traffic from Chicago, Ill. proper (Tr. 5294-5295).

It will be observed that the percentages effective November 28, 1896, were increased from 25 per cent, which applied in connection with the C. B. & Q. and C. P. & St. L. only, to 30 per cent and were extended to cover all Western Trunk Lines that participated in the through rates. The reason for the increase to the Western Trunk Lines from 25 per cent to 30 per cent was, as I recall it, because of a corresponding increase through the Kansas City gateway. In Amendment No. 3 to Percentage Sheet 360, effective February 1, 1897, percentages were published between Iowa and Missouri Points, also Quincy, Ill., as listed in that supplement, and Shreveport, La. via St. Louis, Mo.

Missouri Pacific Railway Company Percentage Sheet No. 372, effective April 15, 1897, cancelled Percentage Sheet No. 360 and merely added Monroe, La. on the same basis [fol. 968] as Shreveport, La. Amendment No. 7 to Percentage Sheet 373, effective March 1, 1898, added Alexandria and Boyce, La. on the same basis as Shreveport on Northbound and Southbound traffic. Also find that Amendment No. 3 to Percentage Sheet No. 373, effective August

6, 1897, provided that the southbound percentages to Shreveport and Monroe, La. would also apply northbound, but I have been unable to obtain a photostatic copy thereof because the amendment was in bad shape. It will be observed that on Milwaukee and Fox River District and points in their respective territories via East St. Louis or Cairo, Ill., the Missouri Pacific Railroad received the same revenue as on traffic from Chicago, Ill. proper and this basis also applied northbound, as previously referred to in Amendment No. 3 (Tr. 5295-5296).

Missouri Pacific Railway Company Percentage Sheet No. 507, effective January 16, 1899 continues the Chicago divisions previously quoted but on traffic between Milwaukee, Wis. and points in Milwaukee territory and Shreveport, Monroe, Boyce and Alexandria, La., provision is made that via East St. Louis or Cairo, Ill. the lines to East St. Louis or Cairo were to be allowed specifics as shown, being 6 cents on first class in addition to their percentage proportion of the Chicago rates. This is approximately the date on which the original Milwaukee, Wis. differentials were discontinued and Chicago differentials substituted for application on traffic to or from points in Milwaukee territory. Prior thereto the Milwaukee territory differentials over the base point East St. Louis in constructing joint through rates to and from Louisiana points, reflected the spread over the Chicago territory differentials to the extent of the specifics as shown on each class in this percentage sheet, however, with the discontinuance of the original Milwaukee territory differentials and the substitution of the Chicago differentials for application in constructing joint through rates to and from Milwaukee territory, it will be observed that the Western Trunk Lines con- [fol. 969] tinued to receive the same revenue so that the Southwestern Lines assumed the entire shrink by reason of the substitution of the Chicago differentials to and from Milwaukee territory (Tr. 5296-5297).

Prior to January 16, 1899, as previously pointed out, the Southwestern Lines received Chicago revenue on traffic to or from points in Milwaukee territory and Western Trunk Lines also received Chicago revenue plus the spread in the rates Milwaukee territory over Chicago territory, but on

and after January 16, 1899, while the Western Trunk Lines continued to receive the same revenue, the Southwestern Lines received as much less than Chicago revenue as reflected by the specifics on each class as shown in Missouri Pacific Railway Percentage Sheet No. 507. The same condition is true of Fox River Territory because on and after January 16, 1899, Fox River Territory enjoyed the same spread in the differentials over Milwaukee territory as prior to January 16, 1899, so that there was a corresponding reduction in the differentials to and from the Fox River territory as related to and from Milwaukee territory which was assumed entirely by the Southwestern Lines under this percentage sheet, whereas prior to January 16, 1899, the Missouri Pacific Railroad on Fox River traffic received Chicago revenue (Tr. 5297).

Several other additions were made in percentages covering Omaha-Davenport territory, namely the 27½ per cent division which was the first time those percentages were published. This is also true of points in Illinois on the C. B. & Q. and in St. Louis territory. I make reference to the division of 20 percent. Our next Percentage Sheet was No. 514 which cancelled Percentage Sheet No. 507, but which continued the same arrangement with some minor additions covering the St. Louis & Hannibal Railway. Missouri Pacific Percentage Sheet No. 819, effective September 18, 1905, is the current issue of the Missouri Pacific Railroad. The arrangements outlined in connection with Missouri Pacific Percentage Sheet No. 507 have been continued [fol. 970] in Percentage Sheet No. 819 with possibly some minor additions. Chicago and St. Louis Traffic Association Division Sheet No. 99 (cancels Division Sheet No. 97), effective May 25, 1895, provided that between Chicago, Ill. and points taking same rates, and points in Louisiana taking Texas common point rates or higher, the lines between Chicago and points taking same rates, and East St. Louis, Ill., East Hannibal and East Louisiana, received 20 percent on all class and commodity rates, and via Cairo, Ill. 22 percent. This is the oldest Chicago and St. Louis Traffic Association Division Sheet in our possession. Chicago and St. Louis Traffic Association Division Sheet No. 108, effective July 15, 1901 (cancels Division Sheet No. 106)

is the latest Chicago and St. Louis Traffic Association Division Sheet that we have in our files. This issue provides that between Chicago and points taking same rates and points in Louisiana taking Texas common point rates or higher, the lines between Chicago and points taking same rates and East St. Louis, East Hannibal, East Louisiana and Quincy, Ill. received 20 percent, and via Thebes-Cairo-Gale, Ill. and East Cape Girardeau 22 percent (Tr. 5298-9).

Chicago and St. Louis Traffic Association Division Sheet No. 107, effective June 1, 1901 (cancels Division Sheet No. 104), published divisions between Milwaukee and common points and points in Louisiana taking Texas common point rates or higher on the basis of 20 percent for the Western Trunk Lines on Classes 1, 2 and 3, or commodities so classified in Western Classification or exceptions thereto, third-class and higher, and the Western Trunk Lines received 22 percent on all other class and commodity rates in effect to and from Milwaukee and common points. The above divisions, being applicable via East St. Louis, East Hannibal, East Louisiana and Quincy, Ill. Via Cairo-Gale-Thebes or East Cape Girardeau, the Western Trunk Lines received 22 per cent on classes 1, 2 and 3, and commodities so classified in Western Classification or exceptions thereto, and 24 percent on all class and commodity rates. This is [fol. 971] the only Chicago and St. Louis Traffic Association Division sheet in our possession covering divisions between Milwaukee and common points and points in Louisiana (Tr. 5299).

It will be observed that the Western Trunk Lines in their committee division sheets referred to, to and from Louisiana points to and from which rates were the same as to and from Texas common points, that the Texas percentages were accepted by the Western Trunk Lines. I am also quoting Western Trunk Lines Committee Report on Subject 19861, dated Chicago, December 11, 1916 as follows:

"Divisions Between Defined Territories and All Stations in Louisiana"

"To Members:

"Report on Committee No. 6, November 22nd and 23rd, December 6th and 7th, 1916

"Divisions north of St. Louis or other corresponding junctions on traffic to or from stations on the T. & P. Ry. or other lines in Louisiana carried on New Orleans rate basis.

"It is the understanding of this committee that lines north of St. Louis and Chicago are now allowed New Orleans revenue. Western Trunk Lines are not concerned in division of proportions south of St. Louis and corresponding junctions.

"Via Kansas City, rates are divided on percentage bases. The bases via Kansas City are not alike via all lines, and this committee recommends a joint conference of all lines working via the Kansas City Gateway to compare the various bases and agrees upon a uniform basis to apply via all lines.

"Division of Through Rates Between Defined Territories and Stations in Louisiana Not Taking New Orleans Rate Basis (Tr. 5300).

"Individual division sheets have been published on the following basis: The basis of divisions for these rates in percentages shown in Southwestern Lines Division Sheet [fol. 972] No. 19-C; The Percentages applied to Louisiana traffic being the same as to Texas local points taking Texas common point rates. Division Sheet No. 19-C, provides that local or proportional rates, whichever are lower, shall be the maximum to the lines participating in this traffic, with certain exceptions as shown in Item 10-A of this division sheet. The committee recommends that the rates covered by this subject be divided on the basis shown above, with restrictions as to local or proportional rates as maxima, and the exceptions as shown in the item named, and except on traffic to and from the following points:

Shreveport, Bossier City, Monroe, West Monroe, Alexandria, Pineville, Heard, Boyce, to and from which points percentages as shown in St. Louis Southwestern Railway Company Percentage Sheet No. 1930 apply."

(Signed) E. B. Boyd (Tr. 5301).

Committee No. 6 of the Western Trunk Lines at that time was the regular Divisions Committee, and their reports and agreements were subject to the approval of the General Traffic Committee. What final action was taken I have no record of; however, the understanding of the Western Trunk Lines Divisions Committee is fully outlined in the report quoted, and it will be noted that it was the understanding of that committee, that Texas percentages were applicable on Louisiana traffic with exception of the points specifically listed above, and further, with the exception of points in Louisiana on the T. & P. Ry. or other lines to and from which the New Orleans rate basis was published, so that there were three different bases to and from points in Louisiana, the Shreveport-Alexandria-Monroe Group, which is on the 30 percent basis for the Western Trunk Lines to and from Chicago via East St. Louis, Ill.-St. Louis, Mo., the Texas percentages or 20 percent to and from all [fol. 973] other points in Louisiana except points in interior Louisiana taking New Orleans rates on which the Western Trunk Lines maintain the same percentages should be applied as on traffic to or from New Orleans, La. The latter feature will be covered later in my testimony. I also wish to call attention to Missouri Pacific Railway Company Division Basis No. 930-C, which has been made a part of my Exhibit No. A-167. Item 10 thereof covers points on the St. Louis Iron Mountain & Southern Ry., now the Missouri Pacific R. R., south of Monroe, north of Alexandria, and provides that the lines north of Mississippi River Crossings receive Alexandria percentages with Alexandria revenue as maximum, the Alexandria percentages via Mississippi River Crossings being published in Missouri Pacific Railway Company Percentage Sheet No. 819. Item No. 10 of that division basis also covers all other points in Louisiana on the St. Louis Iron Mountain & Southern Ry., except points mentioned above, and except points south of Alexandria (Tr. 5301-5302).

Provision is made that the Western Trunk Lines receive via Mississippi River Crossings Monroe, La. percentages with Monroe revenue as maximum, and also refers to Missouri Pacific Percentage Sheet No. 819. The same item covers points south of Alexandria such as Kinder, Lake Charles, and Oakdale, La. which are competitive points, as well as local points south of Alexandria, and provides that the Western Trunk Lines receive via Mississippi River Crossings Texas percentages. So that the main lines of the Missouri Pacific R. R. in Louisiana, south of the Arkansas border with the exception of points south of Alexandria are subject to the Shreveport-Alexandria-Monroe percentages with Alexandria or Monroe, La. revenue as maximum to the Western Trunk Lines according to the location.

My Exhibit No. A-168 comprises seven sheets and covers the rates and divisions between points in Chicago Terri- [fol. 974] tory in Illinois and points in Louisiana via St. Louis, Mo.-East St. Louis, Ill. On the first sheet of this exhibit, I have shown current rates and divisions on Texas common point traffic, and the specifics on each class for the Western Trunk Lines and for the Southwestern Lines. I have shown the present divisions received by the Western Trunk Lines on traffic to or from Arkansas points in specifics on each class, and I have also shown in Block "C" the divisions as proposed by the Southwestern Lines for the Western Trunk Lines on Arkansas traffic (Tr. 5303).

Through rates between Chicago Territory and points in Louisiana are constructed on differentials over the base point, East St. Louis, the same as to and from Arkansas and Texas. The through rates between St. Louis, East St. Louis, also Cairo-Gale-Thebes, Ill. and Louisiana points are higher than the rates to and from Southern Arkansas points, that is, the class rates also commodity rates, although in connection with the latter there are some exceptions. The rates to and from Chicago Territory being made differentially over the base point, East St. Louis, it follows that rates between Chicago Territory and Louisiana points are higher than to or from Arkansas points to the same extent as are the rates to and from St. Louis, Mo.-East St. Louis, Ill. I have shown on Sheet 1 of this exhibit in Block "D," the rates between Chicago Territory, and Arkansas border points and to Louisiana points immediately south of

the Arkansas-Louisiana border, which brings out that feature. I have also shown on Sheets 2, 3 and 4, the through rates between Chicago Territory in Illinois and representative Louisiana points, also the divisions received currently by the Western Trunk Lines and by the Southwestern Lines in percentages, and in specifics on each class. It will be noted that to and from Bastrop, Monroe, Georgetown, Alexandria, Ruston, Winnfield, Minden, Shreveport and [fol. 975] several other points, the Western Trunk Lines receive 30 percent and the Southwestern Lines 70 percent, and that to and from a number of other Louisiana points shown on these three sheets the Western Trunk Lines receive 20 percent and the Southwestern Lines 80 percent, the latter being the Texas common point percents. The through rates however, between St. Louis, Mo.-East St. Louis, Ill., also Chicago Territory and Louisiana points are not the same as to and from Texas common points but are lower, so that to and from points in Louisiana at the present time, and for some time past misunderstandings have arisen excepting points subject to the 30 percent division, and which in brief are Shreveport-Alexandria-Monroe, and other points of lesser importance. I previously quoted Western Trunk Lines Committee Subject No. 19861, dated December 11th, 1916, recommending the application of Texas percentages except to and from Shreveport-Alexandria-Monroe Group, so that this proceeding is an opportune time to have these divisions determined so that there will be no further disputes between the carriers. As before stated, the rates between Chicago Territory and points in Louisiana are made by the use of the standard current differential basis over the base point, East St. Louis, Ill., and the present divisions naturally allow the Western Trunk Lines earnings in excess of the differentials. That of course is expected, but in connection therewith, I have shown on each class the specifics in cents per 100 pounds that the Southwestern Lines shrink below their current local rates in connection with Louisiana points taking the 30 percent division, and in connection with Louisiana points subject to the 20 percent divison (Tr. 5304-5305).

The points that are shown on Sheets 2, 3 and 4 have been circled in red on my succeeding Exhibit No. A-169 which I desire to present at this time, which I thought might be of

[fol. 976] some assistance in following my testimony. On Sheet No. 5 of Exhibit A-168 I have shown the local rates between 18 points in Illinois having a population of 10,000 or more and East St. Louis, Ill. On sheet No. 6 I have shown the local rates between St. Louis, Mo.-East St. Louis, Ill. also Cairo-Gale-Thebes, Ill. and the same points in Louisiana upon which divisions have been shown on Sheets 2, 3 and 4 of this exhibit, and the average of the 10 class rates for each Louisiana point, also the average of the 10 class rates for each Louisiana point, also the average of all of the stations shown on that sheet together with the distances to and from East St. Louis, and the average to and from all the points. On Sheet No. 7 I have worked out percentages based on mileages. In the first block of that sheet I have shown the average mileage between Illinois points and East St. Louis as taken from Mr. Parson's Exhibit No. A-77, or 185 miles, and I have also shown the average of the mileages between East St. Louis, Ill. and Louisiana points as taken from Mr. Parsons' Exhibit No. A-77, or 652 miles. This would result in the Western Trunk Lines receiving 22 percent and the Southwestern Lines 78 percent (Tr. 5306).

In the next block I have shown the average of mileages between Illinois points and East St. Louis having a population of 10,000 or more as shown by my Exhibit No. A-158 which is 209 miles, also the average of mileages between East St. Louis, Ill. and Louisiana points as taken from Mr. Parson's Exhibit No. A-77, or 652 miles. This would result in the Western Trunk Lines receiving 24.3 percent and the Southwestern Lines 75.7 percent. I have next shown the average of mileages between Illinois points and East St. Louis having a population of 10,000 or more as shown by my Exhibit No. A-158, or 209 miles, as compared with the average of mileages between East St. Louis, Ill. and Loui-
[fol. 977] siana points as shown by Sheet No. 6 of this exhibit, or 612 miles. This would result in the Western Trunk Lines receiving 25.5 percent and the Southwestern Lines 74.5 percent. The average of the three methods referred to would result in the Western Trunk Lines receiving 23.9 percent and the Southwestern Lines 76.1 percent. This as compared with 30 per cent to and from points in the Shreveport-Alexandria-Monroe Group, and 20 percent to and from

other Louisiana points. I have also made a test by the use of the current local rates following somewhat along the same lines, by first showing the average of the 10 class rates between St. Louis, Mo.-East St. Louis, Ill. and the same 18 Illinois points having a population of 10,000 or more as shown by my Exhibit No. A-158, which is 33.5 cents per 100 pounds as compared with the average of the class rates between St. Louis, Mo.-East St. Louis, Ill., and the 22 Louisiana points shown on Sheet No. 6 of this Exhibit, which is $1.095 per 100 pounds (Tr. 5306-5307).

Converted to percentages the Western Trunk Lines would receive 23.4 percent and the Southwestern Lines 76.6 percent. I have also shown by the use of the same factor for the Western Trunk Lines, and $1.106 for the Southwestern Lines, the latter being the average of the 10 class rates between St. Louis, Mo.-East St. Louis, Ill., and Shreveport and Alexandria, La. This would allow the Western Trunk Lines 23.2 percent and the Southwestern Lines 76.8 percent. I have next shown by the use of the same factor for the Western Trunk Lines, or 33.5 cents, and $1.085 for the Southwestern Lines, the latter being the average of the 10 class rates between St. Louis, Mo.-East St. Louis, Ill. and Shreveport-Alexandria-Monroe, La. percentages which would allow the Western Trunk Lines 23.6 percent and the Southwestern Lines 76.4 percent. The average of the last [fol. 978] three methods would allow the Western Trunk Lines 23.4 percent, and the Southwestern Lines 76.4 percent. A rate prorate would give the Western Trunk Lines slightly more than a mileage prorate, about one-half of one percent taking it on the average (Tr. 5307-5308).

Now, here again I overlooked including Joilet and Kankakee, but I have tested out both the mileage basis and the rate prorate basis and it changes these percentages one-tenth of 1 percent, that is all. So I don't think it necessary hardly to make any change. Sheet 7 of this exhibit, in the opinion of the Southwestern Lines brings out conclusively that the divisions between Chicago Territory and points in Louisiana subject to the 30 percent division via St. Louis, Mo.-East St. Louis, Ill. are excessive for the Western Trunk Lines, and it practically confirms the original basis of 25 percent as covered by Missouri Pacific Railway Percentage

Sheet No. 210, photostatic copy of which has been made a part of my previous exhibit. That 25 percent applied only to Shreveport originally. Then it was extended to Monroe and Alexandria later. When I say that the exhibit confirms the 25 percent, I mean as applied to those points subject to the 30 percent division as at present. I didn't apply it to the balance of the state south of that group (Tr. 5308-5309).

As previously pointed out the rates between St. Louis, Mo.-East St. Louis, Ill. and Louisiana points with exception of some commodity rates are higher than the rates to or from Arkansas points and Chicago Territory similarly, because of the differential basis over the base point, East St. Louis. Proceeding in a southerly direction through the state of Arkansas the rates gradually become higher for the greater distances of the Southwestern Lines, and correspondingly higher to and from points in Louisiana because of the added service, so that on traffic to or from St. Louis, Mo. and East St. Louis, Ill., the earnings of the Southwest-[fol. 979] ern Lines become greater for their added service, and the same situation should also be reflected in the division of joint through rates to and from points in the defined territories east of Mississippi River Crossings (Tr. 5309-5310).

This situation is generally reflected in the division of rates to and from points in the defined territories east of the Mississippi River with the exception of Western Trunk Line Territory. It therefore follows that the Western Trunk Lines should receive no greater division on Louisiana traffic as on Arkansas traffic, in other words, the same specifics for the Western Trunk Lines as I have proposed for application on Arkansas traffic should also be applied as to Louisiana traffic, which are shown on Sheet No. 1 of this exhibit. Percentages should be arranged by taking the average of the specifics referred to for the Western Trunk Lines on the 10 classes, and the balance of the through rates on the 10 classes for the Southwestern Lines, using the average of such balance and percentages published, that insofar as traffic moving on through class rates are concerned would result in the Western Trunk Lines receiving approximately the same specifics as proposed on Arkansas

traffic, and such percentages should be applied in the division of all joint through rates regardless of how made, and regardless if rates on some commodities from interior Louisiana points are on the same basis as New Orleans, for example, Sugar, Molasses, Oyster Shells and several other commodities which I will refer to later on in my testimony. In the opinion of the Southwestern Lines there is no justification for any difference in the divisions received by the Western Trunk Lines on Louisiana traffic as on Arkansas traffic insofar as class rates are concerned, and if percentages are published in the manner indicated, it will bring [fol. 980] about an equitable distribution of the revenue in division of through commodity rates (Tr. 5310-5311).

The principal commodities originating in the Southwest and terminating in Western Trunk Line Territory have generally been subject to specific agreements that accord the Western Trunk Lines greater divisions than by the application of merchandise percentages. This we believe is improper, because if merchandise percentages are proper in the division of through class rates they are also proper on through commodity rates. On commodities originating within Western Trunk Line Territory, practically all traffic destined points in the Southwest is divided on merchandise bases, and if any inequalities have resulted it has generally been in favor of the Western Trunk Lines and against the Southwestern Lines as I pointed out before, so that whatever percentages are adopted in the division of through class rates should be applied in the division of all through commodity rates (Tr. 5311).

The basis I have proposed is therefore intended to cover the entire state of Louisiana with the exception of New Orleans, La. and west bank points that are within the switching limits of New Orleans, including Vidalia, La., which is a Mississippi Valley prorating point, and is on the same basis as Natchez, Miss. on the east bank, because the west side lines equalize the divisions made by the east side lines, however, the Southwestern Lines are not adverse to placing Vidalia, La. on the same basis of percentages as proposed for application to and from all other interior Louisiana points (Tr. 5311-5312).

(The three statements described by the witness were thereupon received in evidence as Exhibit A-167, A-168 and A-169.)

[fol. 981] My Exhibit No. A-170 comprises five sheets and covers rates and divisions between Chicago Territory in Illinois and Louisiana points as shown in this exhibit via Cairo-Gale-Thebes, Ill. It will be observed that to the Shreveport-Alexandria-Monroe Group the Western Trunk Lines receive 40 percent and the Southwestern Lines 60 percent. I have also shown the Texas percentages to and from all other points on the exhibit. Sheets 1, 2 and 3 show this information, and the earnings in cents per 100 pounds for the Western Trunk Lines and for the Southwestern Lines on each class. I have also shown the shrink that is being made currently by the Southwestern Lines in their divisions below their current local rates on each class. It will be observed that the shrink being made by the Southwestern Lines below their current local rates is very substantial, for example on fifth-class at Monroe the shrink is 38.8 cents, at Alexandria 32.4 cents and at Shreveport 32.4 cents per 100 pounds. Even on the basis of Texas percentages at other points, the shrink of the Southwestern Lines below their current local rates is very substantial (Tr. 5312-5313).

On the other hand, a comparison of the divisions received in cents per 100 pounds by the Western Trunk Lines on traffic between Chicago Territory in Illinois and Shreveport-Alexandria-Monroe, La. and other points subject to the 40 per cent division as compared with the local rates between Chicago, Ill. and Cairo-Gale-Thebes, Ill. as well as the local rates between other Illinois points and Cairo-Gale-Thebes, Ill. as shown on Sheet 4 of this exhibit indicates that the divisions received by the Western Trunk Lines in practically all cases in division of through class rates exceed their full current local rates. Provision is made in the division sheets that lines north and south of Cairo-Gale-Thebes, Ill., are not to receive in excess of their local rates, [fol. 982] so that the Western Trunk Lines receive approximately their local rates to and from points in Louisiana that are subject to the 40 percent division, and the Southwestern Lines assume the entire shrink between the

combination and the current standard differentials. This alone indicates that the 40 percent division is in excess of what the Western Trunk Lines should receive, as there can be no justification for one group of lines receiving their full local rates, and another group of lines being required to make the entire shrink between the combinations and the differential basis (Tr. 5313).

This situation, of course, does not obtain to and from points in Louisiana that are subject to the Texas percentages or 22 percent, however, the Southwestern Lines do make a substantial shrink in their divisions below their current local rates. On sheet 4 of this exhibit, I have shown opposite each Illinois point the current local rates between such Illinois points and Cairo-Gales-Thebes, Ill. as compared with the local rates between the same points and St. Louis, Mo.-East St. Louis, Ill. and the spread in the local rates on each class Cairo-Gale-Thebes, Ill. over St. Louis, Mo.-East St. Louis, Ill. It will be observed that the divisions received by the Western Trunk Lines to and from Louisiana points that are subject to the 40 percent division, that the earnings of the Western Trunk Lines on each class via Cairo-Gale-Thebes, Ill. as compaerd with the divisions via East St. Louis, Ill.-St. Louis, Mo. on the basis of 30 percent, which is the present division, that the spread in their earnings Cairo-Gale-Thebes, Ill. over St. Louis, Mo.-East St. Louis, Ill. is in excess of the spread in their local rates Cairo-Gale-Thebes, Ill. as compared with St. Louis, Mo.-East St. Louis, Ill. This in the opinion of the Southwestern Lines is conclusive that there can be no justification whatever for the division of 40 percent via Cairo-Gale-Thebes, Ill. as currently in effect (Tr. 5314).

[fol. 983] To bring out the point I desire to refer specifically to Shreveport as an example, the Western Trunk Lines currently receive 69.6 cents per 100 pounds via St. Louis, Mo.-East St. Louis, Ill. on first-class, and 32.6 cents per 100 pounds on fifth class. Via Cairo-Gale-Thebes, Ill., the Western Trunk Lines currently receive 92.8 cents per 100 pounds on first-class and 43.4 cents per 100 pounds on fifth class. It will be seen that the spread in the divisions of the Western Trunk Lines via Cairo-Gale-Thebes, Ill. exceed the divisions via St. Louis, Mo.-East St. Louis, Ill.

by 23.2 cents on first-class, and 10.8 cents on fifth class, whereas, the spread in the local rates between Chicago and Cairo-Gale-Thebes, Ill. over St. Louis, Mo.-East St. Louis, Ill. currently is 9.5 cents per 100 pounds on first-class, and 3.5 cents on fifth-class (Tr. 5315).

On sheet No. 5 of this exhibit I have shown the average of the class rates between Cairo-Gale-Thebes, Ill. and 18 Illinois points having a population of 10,000 or more as shown by Exhibit No. A-158 which is 39.3 cents per 100 pounds, and I have also shown the average of the class rates between Cairo-Gale-Thebes, Ill. and Louisiana points as shown by Sheet No. 6 of Exhibit No. A-168, which is $1.09½ per 100 pounds. Reduced to percentages the Western Trunk Lines would receive 26.4 percent and the Southwestern Lines 73.6 percent. This further confirms what I have said about the divisions via Cairo-Gale-Thebes, Ill. and practically justifies the Texas percent to and from all Louisiana points, however, as before pointed out, because the rates between Cairo-Gale-Thebes, Ill. to and from points in Louisiana reflect a gradual advance based on the added service of the Southwestern Lines as compared with [fol. 984] rates to and from points in Arkansas, and that on local traffic this is reflected, so that on traffic to or from points in Chicago Territory which are made differentially over East St. Louis, it follows that the Western Trunk Lines should receive no greater division than on traffic to or from points in Arkansas, that is, the specifics I have proposed for application on Arkansas traffic via Cairo-Gale-Thebes, Ill. for the Western Trunk Lines should be averaged on the 10 classes, and the balance of the through rates for the Southwestern Lines on the 10 classes should also be averaged and percentages arrived at on that basis to and from all interior Louisiana points which when applied to the class rates will bring about approximately the specifics that I have proposed on Arkansas traffic and accord the Southwestern Lines the spread in the rates as their service increases (Tr. 5315-5316).

Referring to sheet No. 5 of Exhibit A-170, where it says "average of class rates between Cairo-Gale-Thebes, etc." as shown on Exhibit No. Blank, that would be Exhibit A-168, and in the next line where it says "average of class rates as shown by Sheet No. 6 of Exhibit No. Blank",

that first block where it speaks of population, that should be Exhibit A-158. The sentence right below, the average of class rates, et cetera, to Louisiana points as shown by sheet No. 6 refers to Exhibit A-168. A list of points on that sheet is a list of representative points scattered over the state. It is not confined to this territory represented by the division from Monroe, Alexandria, and Shreveport. I have taken the representative points throughout the state. The basis reached on sheet No. 5 of Exhibit A-170 would apply to the whole state and accord the southwestern lines the spread in the rates as their service increases. That is what was intended when through rates were established locally to and from Cairo-Gale-Thebes, Ill., and the same [fol. 985] method should be followed in dividing joint through rates to and from Chicago territory. Percentages so arrived at should be applied in division of all joint through rates regardless of how made, which will bring about an equitable distribution of the revenue on through commodity rates. The divisions via Cairo-Gale-Thebes, Ill. on Arkansas traffic that I have proposed for the Western Trunk Lines are as much in excess of the divisions proposed via St. Louis, Mo.-East St. Louis, Illinois as reflected in the local rates between Chicago and Cairo-Gale-Thebes, Illinois, as compared with St. Louis, Missouri-East St. Louis, Illinois (Tr. 5316-5317-5318).

(The statement described by the witness was thereupon received in evidence as Exhibit A-170.)

[fol. 986] My Exhibit No. A-171 comprises six sheets and covers the rates and divisions between Milwaukee Territory and Louisiana points previously described via St. Louis, Missouri-East St. Louis, Illinois. As previously pointed out, the through rates between Milwaukee Territory and Louisiana points were higher than the rates between Chicago Territory and Louisiana points to the extent of the spread in the differentials over the base point, East St. Louis, that is 6 cents per 100 pounds on first-class and relative lower differentials on the remaining classes. This differential was reflected in the divisions. The Southwestern Lines received Chicago revenue to and from points in the Shreveport-Alexandria-Monroe Group and the Western Trunk Lines received Chicago revenue plus the spread

in the differentials Milwaukee Territory over Chicago Territory (Tr. 5319).

When the Milwaukee differentials were eliminated and the Chicago differentials substituted to apply to and from Milwaukee Territory, the joint through rates were reduced to the extent that the differentials were reduced, however, the Southwestern Lines continued to allow the Western Trunk Lines Chicago revenue plus the original spread in the differentials and this basis is in effect at the present time, so that the Southwestern Lines ever since have secured the entire reduction. This is reflected by an observation of Sheet No. 1, and other sheets of this exhibit on which I have shown that the Western Trunk Lines receive currently 30 per cent plus the original spread, Milwaukee Territory over Chicago Territory, as advanced under the several general advances and the general reduction of 1922, beginning with 9 cents per 100 pounds on first class with lower spreads on the remaining classes. This situation exists between Milwaukee Territory and Louisiana points in the Shreveport-Alexandria-Monroe Group. To and from other points in Louisiana the Texas percentages are applied which [fol. 987] allows Western Trunk Lines 20 per cent on Classes 1, 2 and 3 and 22 per cent on the remaining classes, so that on the classes subject to the 22 per cent as well as on commodities on which the 22 per cent division applies to the extent of two percentage points of the through rates is assumed by the Southwestern Lines as against Chicago revenue (Tr. 5319-5320).

It will be noted that on some of the lower classes the Western Trunk Lines would receive in excess of their local rates so that in such cases under the provisions of the division sheets the Western Trunk Lines would receive their current local rates, however, the shrink in the divisions by the Southwestern Lines below their local rates far exceed the shrink by the Western Trunk Lines on the classes on which the Western Trunk Lines division is less than their current local rates, and on the classes on which the Western Trunk Lines divisions exceed their local rates, and on which they automatically receive their current locals as their actual division, the Southwestern Lines assume the entire shrink between the combination of locals and the actual differentials used in the construction of through rates. For

example, at Monroe, Louisiana, the Western Trunk Lines receive on fifth-class 4.1 cents in excess of their local rates under the divisional arrangement, so that they would actually receive in division their full current local rate and the Southwestern Lines would shrink 20 cents per 100 pounds below their full current local rate. The situation at Monroe shown there that it was based on the Western Trunk Lines receiving in excess of their local rate. They are automatically restricted to the local rate. I haven't shown their rate, so my testimony brings out the actual shrink which the Southwestern Lines make, which is 20.1 cents (Tr. 5320-5321).

[fol. 988] The same situation exists at other points, however, at Louisiana points that are subject to the Texas percentages the Western Trunk Lines are shrinking below their local rates, but the Southwestern Lines shrink amounts below their local rates that are substantially in excess of the shrink being made by the Western Trunk Lines. The position of the Southwestern Lines is that on traffic between Milwaukee Territory and all Louisiana points, the Southwestern Lines should receive Chicago revenue the same as they received originally when the through rates between Milwaukee Territory and Louisiana points were on a differential basis higher than Chicago territory, which spread as before stated accrued to the Western Trunk Lines. There is no reason why the Southwestern Lines should have assumed this entire shrink, and as I have shown before by previous exhibit, the Western Trunk Lines carry higher local rates, also higher proportional rates between Milwaukee Territory and St. Louis, Missouri-East St. Louis, Illinois, Cairo, Illinois and all Ohio River Crossings east thereof, also to and from Mississippi Valley points as to and from Chicago, so that there is no reason why the Southwestern Lines currently should receive less than Chicago revenue, and this situation should be extended from the time that the Milwaukee differentials were discontinued (Tr. 5321-5322).

The Southwestern Lines are of the opinion that the specifics proposed for application between Milwaukee Territory and Arkansas points should reflect the revenues for the Western Trunk Lines, and that the average of the specifics on the 10 classes referred to should be the factor

for the Western Trunk Lines, and the balance of the through rates on the 10 classes for the Southwestern Lines should be averaged and percentages arrived at which should be published between Milwaukee Territory and each point in the [fol. 989] State of Louisiana, which when applied to the class rate would produce approximately the same specifics as previously proposed on Arkansas traffic. In connection with my previous exhibit I have explained the reason for this. These percentages ought to be applied to the division of all joint through rates, and will result in a staple basis of divisions, and which should not change with revisions in the local rates of the Western Trunk Lines or the Southwestern Lines unless there be a corresponding change in the joint through rates, nor should exceptions be made in the division of commodity rates now in effect or that may be established hereafter. I have also previously pointed out that on traffic between Milwaukee, Wisconsin, and the so-called trans-Missouri Territory, involving the states of Oklahoma, Kansas, Nebraska, Colorado, Utah and Southwest Missouri, the lines west of the Missouri River receive Chicago revenue, and there is no reason why the Southwestern Lines should not receive Chicago revenue via the St. Louis, Missouri-East St. Louis, Illinois gateways between Milwaukee Territory and Louisiana points (Tr. 5322-5323).

On the other hand, if the Western Trunk Lines are not in a position to accept the same revenue between Milwaukee Territory and East St. Louis as proposed between Chicago Territory and East St. Louis on Louisiana traffic the remedy is not one of divisions. Certainly it is not incumbent upon the Southwestern Lines to shrink their revenue to the extent of the elimination of the Milwaukee differentials as we have done for a number of years as previously pointed out (Tr. 5323-5324).

(The statement described by the witness was thereupon received in evidence as Exhibit A-171.)

[fol. 990] Referring to the first sheet of Exhibit A-171, the 30 per cent north of East St. Louis on the first class taking the rate from Bastrop, Louisiana, of 64.8 cents, the 9 cents appears immediately below that and is the original differential or spread Milwaukee Territory over Chicago

Territory advanced, or 6 cents advanced 25 per cent, then 35 per cent and reduced 10 per cent. In other words, the total division on Milwaukee territory to Bastrop on the first class is 73.8 cents. The $2.16 rate first class to Bastrop is the through rate from Bastrop to Milwaukee and is also the Chicago rate (Tr. 5324).

My idea is that out of the $2.16 we should take the same revenue south of East St. Louis as we take on traffic from Chicago. I don't think that at the present time the Northern Lines are entitled to anything additional for the additional haul. The reason for this is that originally as I have previously pointed out Milwaukee enjoyed a differential over Chicago. The Southwestern Lines at that time received Chicago revenue and the lines north of East St. Louis received from Milwaukee Territory that spread over the Chicago rate or 6 cents originally. Now since that differential was eliminated entirely, the Southwestern Lines are continuing to allow the Western Trunk Lines that same revenue and we are doing the shrinking by reason of that elimination of the Milwaukee differential. We are not still taking 70 per cent of the Chicago rate less 6 cents. That is where the trouble is. The rates are published by Chairman Leland, The Southwestern Freight Bureau (Tr. 5325).

My Exhibit No. A-172 comprises six sheets and covers divisions between Milwaukee Territory and Louisiana [fol. 991] points previously described via Cairo-Gale-Thebes, Illinois. It will be again observed that the Western Trunk Lines currently receive between Milwaukee Territory and Louisiana points in the Shreveport-Alexandria-Monroe Group 40 per cent plus the original spread, Milwaukee differentials over Chicago as advanced under the several general advances and the general reduction of 1922, and that currently in practically all cases the Western Trunk Lines on that basis would receive in excess of their full current local rates. Automatically in such cases the Western Trunk Lines receive their full current local rates by reason of the restrictions in the division sheets to the lines north and the lines south of Cairo-Gale-Thebes to their local rates as maximum. On the other hand, the Southwestern Lines are shrinking substantial amounts below their local rates between Cairo-Gale-Thebes and the

Louisiana points referred to, for example, at Monroe, Louisiana, the Western Trunk Lines on the differential basis now in effect would receive 8.8 cents in excess of their local rates, so that in division of through rates made by the use of the Chicago differentials the Western Trunk Lines would actually receive their full current local rate of 34 cents per 100 pounds, and the Southwestern Lines would receive 26 cents per 100 pounds less than their current local rate (Tr. 5326).

I have already described the situation with respect to the divisions between Milwaukee Territory and Louisiana points via St. Louis, Missouri-East St. Louis, Illinois, and the basis via Cairo, also the divisions between Chicago Territory and Louisiana points via Cairo-Gale-Thebes Illinois. The Southwestern Lines originally received Chicago revenue, and they should have continued to receive Chicago revenue following the elimination of the original Milwaukee [fol. 992] differentials. Further, the divisions between Milwaukee Territory and Louisiana points in the opinion of the Southwestern Lines should be as much more than the basis proposed via East St. Louis as is reflected by the spread in the class rates between Milwaukee Territory and Cairo-Gale-Thebes, Illinois, over St. Louis, Missouri-East St. Louis, Illinois, and specifics so arranged on the classes should be converted into percentages which would automatically allow the Western Trunk Lines approximately the same revenue in division of through class rates as pro- and such percentages should be applied in division of all joint through rates (Tr. 5336-5327).

(The statement described by the witness was thereupon received in evidence as Exhibit A-172.)

[fol. 993] I advocate that on the theory that the Southwestern Lines perform additional service from Louisiana. The rate scales upward for the greater distance, Louisiana versus Arkansas. The cure is not in divisions on this Milwaukee Territory. If the Western Lines carry higher rates locally to Milwaukee from Western Trunk Line points, and to Chicago, I don't see any reason why they can't carry that same spread on Southwestern traffic. The rates published by Mr. Leland and the Western Trunk Line have

given him the power of attorney to publish those rates for their account. I think Mr. Dana covered this point in his testimony in which he pointed out that a joint conference was arranged at the suggestion, I believe, of Mr. Brown, who as I recall it was then Chairman of the Chicago and St. Louis Traffic Association. Evidently that arrangement was concurred in by the Southwestern Lines or the rates would not be published (Tr. 5527-5528).

Normally the Western Trunk Lines or the Northern Lines would be entitled to more revenue on traffic hauled from Milwaukee than on traffic hauled from Chicago, and they are receiving it today and they have been all these years. We have been assuming that entire shrink and that is where the difficulty comes in. There might have been some merit to this proposition if this shrink had been absorbed partly by Western Trunk Lines, but the Southwestern Lines have assumed it entirely in this divisional arrangement. I am pointing out that if the Western Trunk Lines can and if they do maintain higher rates from Milwaukee Territory locally and proportional rates to Mississippi River and Ohio River Crossings and Mississippi Valley points, if in their judgment they can not afford to allow the Southwestern Lines on Milwaukee traffic, then I think the remedy lies in increasing the rates to the same extent, as you carry them from Mississippi Valley and Ohio River crossings to Chicago. That difference originally existed. [fol. 994] Now I don't see any difference, Mr. Towner, between this territory and the territory, the trans-Missouri territory. You have the same rates from Chicago to the trans-Missouri. The lines west of the Mississippi River have always received trans-Missouri—there's where the Western Trunk Lines receive the same revenue between Milwaukee and the Missouri River as between Chicago and the Mississippi River Crossings. If they perform the additional haul north of Chicago, they should not get any additional revenue under the divisional arrangement. I don't know why the Chicago rates were extended to Milwaukee. I hav-n't gone into that (Tr. 5329-5330).

On page 2, Exhibit A-172, there are some Louisiana points where the Milwaukee arbitrary so called does not apply. That is true of this 20 and 22 per cent. The fact that the northern lines take a shrink of 45½ cents out of the

local rate of 96½ cents may not be a proper proportion looking at this in and of itself, but as I pointed out, the rates from St. Louis-East St. Louis to points in Western Wisconsin and following southward to points in Louisiana, gradually increase. Now the service of the Western Trunk Lines between Milwaukee and between Chicago and East St. Louis is approximately uniform. Now these rates from St. Louis-East St. Louis advance because of the greater service. Now whatever division is proper on Arkansas traffic, I say the Western Trunk Lines should not receive any more than they do, than that same division on Louisiana traffic. Their division should not change or fluctuate. This situation is largely because your Milwaukee rates are on the Chicago basis. Part of that is caused by that (Tr. 5330-5331).

In that case the Western Lines don't get the 9-cent arbitrary. That is where really on classes four and lower, the northern lines receive 22 per cent or two percentage points [fol. 995] higher than Chicago (Tr. 5332).

My Exhibit No. A-173 comprises four sheets and covers the rates and the divisions between Chicago Territory west of the Mississippi River and representative Louisiana points via St. Louis, Missouri-East St. Louis, Illinois. The joint through rates are the same as to and from Chicago Territory east of the Mississippi River, and are constructed by the use of the same differentials over the base point, East St. Louis, Illinois. The divisions currently in effect are also the same as to and from Chicago Territory east of the Mississippi River (Tr. 5332-5333).

I have shown on Sheet 1 the result in cents per 100 pounds on each class to the Western Trunk Lines and to the Southwestern Lines, and the amount in cents per 100 pounds in each class that the divisions received by the Western Trunk Lines exceed the differentials, also the amounts in cents per 100 pounds on each class that the divisions received by the Southwestern Lines are less than their current local rates. There is also shown as information the divisions in effect prior to November 28, 1896, or 25 per cent to the Western Trunk Lines and 75 per cent to the Southwestern Lines with the result in earnings in cents per 100 pounds on each class for the Western Trunk Lines and the Southwestern Lines. A comparison is shown of the earnings received by

the Western Trunk Lines on Monroe-Alexandria-Shreveport traffic on this sheet as compared with the earnings on each class received by the Western Trunk Lines on traffic to or from Little Rock, Arkansas, and it will be observed that the Western Trunk Lines currently receive greater revenue in division on each of the class rates as they receive currently on Little Rock, Arkansas, traffic. The current earnings of the Western Trunk Lines also exceed the current earnings applicable on Arkansas traffic to and from Chicago Territory east of the Mississippi River to a much [fol. 996] greater extent as between Chicago Territory west of the Mississippi River and Little Rock, for example, on fifth-class the Western Trunk Lines currently receive 32.1 cents per 100 pounds, whereas, between Chicago territory east of the Mississippi River and Arkansas points, the Western Trunk Lines currently receive 20.5 cents per 100 pounds (Tr. 5333-5334).

On Alexandria-Shreveport traffic, the situation is about the same. On Sheets 2, 3 and 4, there is shown the divisions to and from Lake Charles, Lafayette and Donaldsonville. The Western Trunk Lines currently receive Texas percentages according to the understanding of the Southwestern Lines, and as Chicago Territory west of the Mississippi River on Texas traffic is subject to varying percentages for the Western Trunk Lines depending upon the origin or destination in Iowa, it is necessary to select representative points, and indicate the divisions opposite each with the result in earnings for both groups of lines on each class. There is also shown the average divisions for the Western Trunk Lines, and for the Southwestern Lines based on the divisions to and from the representative Iowa points shown, and the shrink assumed by the Southwestern Lines in the divisions below their local rates. There is also shown the divisions between Chicago Territory in Illinois and the same Louisiana points on the basis of the Chicago Territory percentages applicable between Illinois points in that territory and Texas, from which it will be observed that the Western Trunk Lines to and from Chicago Territory west of the Mississippi River on the average receive greater earnings than to or from Chicago Territory east of the Mississippi River, although the same joint rates are in effect (Tr. 5334-5335).

The Southwestern Lines maintain that to and from Chicago Territory west of the Mississippi River and all interior Louisiana points with the exception of points within the [fol. 997] port limits of New Orleans, and excepting Vidalia, Louisiana, that the Western Trunk Lines should receive in division of the through rates no greater earnings than to or from points in Arkansas as proposed by the Southwestern Lines in division of through class rates, and that percentages ought to be arranged in the manner previously indicated and applied in the division of all joint through rates class or commodity, so that the increase in the rates to and from Louisiana points over Arkansas will automatically accrue to the Southwestern Lines where such increase exists, and where it does not exist, the distribution of revenue on basis indicated will in the opinion of the Southwestern Lines provide an equitable distribution of the difference between the through commodity rates and the through class rates. There is no justification for allowance to the Western Trunk Lines of greater revenue on Louisiana traffic than on Arkansas traffic, which has been shown by this exhibit is the situation at the present time to and from points in the so-called Shreveport-Alexandria-Monroe Group, and to a substantial extent to and from Lake Charles, Lafayette and Donaldsonville on the basis of the current Texas percentages (Tr. 5335).

(The statement described by witness was thereupon received in evidence as Exhibit A-173).

[fol. 998] I have not prepared an exhibit via Cairo-Gale-Thebes, Illinois. Via those gateways the Western Trunk Lines receive 40 per cent to and from the Shreveport-Alexandria-Monroe Group, and Texas percentages to and from other Louisiana points, so that insofar as the Shreveport-Alexandria-Monroe Group is concerned, the same situation prevails as previously outlined in connection with Chicago territory east of the Mississippi River.

On certain parts of this traffic the Western Trunk Lines perform a substantially greater haul to Chicago territory west of the Mississippi River than they do from Chicago to the territory east. On the average, the mileage to this territory is worse than the mileage from Chicago to territory east; but taking Chicago territory, which is right im-

mediately south of Fox River territory and comparing that with northern Illinois, while from the eastern half of the Chicago Territory I think your mileage would compare somewhat with your mileage from northern Illinois. I used that all over Illinois (Tr. 5336).

There is no doubt that the average mileages from Chicago west of the River would be higher than the averages east of the River. Ordinarily it would justify higher earnings to the Western Trunk Lines, on that traffic west of the Mississippi River. I am coming to the point that I mentioned yesterday, that I think the differentials of the Chicago Territory have been extended entirely too far because immediately north of this Chicago territory west of the River we have Fox River Territory with very substantial differentials. That is another situation brought about by the publication of the through rates. Now on this Fox River Territory there is where the lines north naturally receive that spread, the Western Trunk Lines receive the spread over Chicago. It is true that this territory group I presume has been in effect for a number of years, I don't know how long, but looking at the map that I made of that territory [fol. 999] there, it seems to me that there ought to be some change in that differential, especially from the Western part of that territory (Tr. 5337-5338).

My Exhibit No. A-174 comprises five sheets and covers rates and divisions between Omaha-Davenport Territory and is located south of Chicago territory, and the through rates are constructed by the use of lower differentials over the base point, St. Louis, Missouri, than the Chicago Territory differentials. To and from the Shreveport-Alexandria-Monroe Group the Western Trunk Lines receive 27.5 per cent, and the Southwestern Lines 72.5 per cent. The earnings for both groups of lines on each class have been shown on that basis, and I have also shown the shrink of the Southwestern Lines in their divisions as compared with their local rates between St. Louis, Missouri, and Louisiana points mentioned. It will be observed that the shrink of the Southwestern Lines is very substantial below their local rates; for example, on first class it is 35.7 cents and on fifth class 21.7 cents per 100 pounds. The basis for the percentages of 27½ per cent for the Western Trunk Lines and 72½ per cent for the Southwestern Lines were arranged so as

nearly as possible to accord the Southwestern Lines the same revenue as on Chicago Territory traffic. This will be observed from the exhibit itself on which the Chicago earnings are shown for the Southwestern Lines so that the Western Trunk Lines receive as much less than Chicago revenue as is reflected by the spread in the differentials Chicago Territory as compared with Omaha-Davenport Territory over the base point, St. Louis, Missouri (Tr. 5338-5339).

What I have said with respect to the Shreveport-Alexandria-Monroe Group is not the case with respect to other Louisiana points as indicated by Sheets 2, 3 and 4 of this exhibit. On the latter sheets I have shown representative Iowa points located in Omaha-Davenport Territory, and one point in northern Missouri, and have shown the earnings based on Texas percentages. It will be observed that [fol. 1000] the average of the earnings received by the Western Trunk Lines of the points in Iowa and Missouri as shown are approximately the same as the Western Trunk Lines receive to and from Chicago Territory east of the Mississippi River, so that the Southwestern Lines are assuming the spread in the differentials Omaha-Davenport Territory under Chicago Territory which is not proper. The situation should be the reverse, but by the application of the Texas percentages the present situation has been brought about due no doubt to the many readjustments in the rates between St. Louis, Missouri, and Louisiana points. Between Omaha-Davenport Territory and all interior Louisiana points except points within the switching limits of New Orleans and excepting Vidalia, Louisiana, the Western Trunk Lines in the opinion of the Southwestern Lines should receive no greater revenue than proposed by the Southwestern Lines for application between Omaha-Davenport Territory and points in Arkansas as previously outlined, and percentages ought to be arranged to and from each point in Louisiana and applied to all traffic which will also result in the Western Trunk Lines receiving approximately the same revenue on Louisiana traffic as on Arkansas traffic moving under class rates, and in division of through commodity rates it will result in an equitable distribution of the shrink between the through commodity rates and the through class rates for both groups of lines (Tr. 5339-5340).

There has been shown on Sheet No. 5 of this exhibit the local rates between Iowa and Missouri points shown in previous sheets, and St. Louis, Missouri, and it will be noted by a comparison of the divisions received by the Western Trunk Lines that in some cases their earnings are almost equal to their current local rates, and in some instances particularly on fifth class they exceed the current local rates, so that where this condition exists the Western Trunk Lines receive their current local rates as their division by reason [fol. 1001] of the division sheets limiting the lines north and south of St. Louis to their local rates as maximum. There are no divisions published between points in Omaha-Davenport Territory and Louisiana points via Cairo-Gale-Thebes, and there is little necessity therefor, because practically all of this traffic is interchanged at St. Louis, Missouri, however, the joint through rates are applicable because there are no restrictions in the tariffs against the Cairo-Gale-Thebes Gateways, so that divisions should also be published via the Cairo-Gale-Thebes Gateways on the basis of according the Western Trunk Lines the same as proposed for application on Arkansas traffic, and percentages arrived at for application on all traffic (Tr. 5340-5341).

(The statement described by the witness was thereupon received in evidence as Exhibit A-174.)

[fol. 1002] I think I said something to the effect that the Texas percentages based on the local rates on that traffic. I think I made some comment in my testimony on that point. As to Sheet 1, I said there has been shown the local rate between Iowa and the Missouri points. That is wrong, that should be Sheet No. 5 (Tr. 5341-5342).

I didn't dwell on the divisions from Chicago territory and Milwaukee territory via Kansas City. I said that the lines west got the same revenue from both. But I only dealt with the St. Louis-East St. Louis, and Cairo gateways. I didn't deal with the Kansas City gateway on Louisiana traffic at all. By way of comparison I said that on the traffic from Chicago and Milwaukee territory to and from the trans-Missouri territory, the lines west took the same revenue. That is, the same revenue as Chicago, but not the same divisions as through St. Louis. The divisions via Kansas City and via St. Louis are entirely different

on trans-Missouri territory. The divisions from Chicago territory to Louisiana points, that is the Shreveport group as I recall it, are 40 per cent east of Kansas City as against 30 per cent east of the St. Louis gateway. That is on Chicago territory. The distance from points in the western half of the Chicago territory located west of the Mississippi River to Kansas City is naturally less than the distance from the same points to the St. Louis gateway, although their division is greater of course to Kansas City than to St. Louis, 40 per cent as against 30 percent (Tr. 5342-5344).

My Exhibit No. A-175 comprises one sheet, and covers the rates and divisions between points in St. Louis Territory and representative Louisiana points via St. Louis, Missouri, only. There is not a complete line of divisions to cover all points in St. Louis territory on all lines, and Louisiana points, however, the Wabash and C. B. & Q. Railroads are covered. I have therefore shown the divisions between representative points in Missouri located on the [fol. 1003] C., B. & Q. and Wabash Railroads and Louisiana points. I have selected two points, namely Hannibal and Louisiana, Missouri, located on the west bank of the Mississippi River, two points in the central portion of St. Louis territory, that is Moberly and Mexico, Missouri, also two points located in the western portion of St. Louis territory, namely Carrollton and Chillicothe, Missouri. It will be observed that the Western Trunk Lines receive 20 per cent to and from Hannibal, and Louisiana, Missouri, 27.5 per cent to and from Moberly and Mexico, Missouri, and 30 per cent to and from Carrollton and Chillicothe, Missouri, to and from the so-called Shreveport-Alexandria-Monroe Group. St. Louis territory is located south of Omaha-Davenport Territory, and the through rates are the same as to and from St. Louis, Missouri. St. Louis Territory on Louisiana traffic is comparable with Kansas City Territory on Arkansas traffic, the boundaries of each territory being similar (Tr. 5343-5344).

The joint through rates between St. Louis territory and points in Louisiana are lower than the through rates to or from Chicago or Omaha-Davenport Territories. The hauls of the Western Trunk Lines between points in the eastern and central portions of St. Louis territory are less than to and from points similarly located in Omaha-Davenport

Territory as a general rule, and accordingly, the Southwestern Lines ought to be accorded the same revenue as proposed to and from Omaha-Davenport Territory, to interior Louisiana points with the exception of points within the switching limits of New Orleans and excepting Vidalia, Louisiana, in other words, the Western Trunk Lines should be accorded the same earnings as proposed on Arkansas traffic. This will result in the Southwestern Lines being accorded the spread in the rates Louisiana points over Arkansas. Percentages ought to be arrived at to and from each point in Louisiana using as factors for the Western Trunk Lines the average of the specifics on the ten classes and similarly for the Southwestern Lines, which percentages should be applied in the division of all joint through [fol. 1004] rates, and will result in the Western Trunk Lines receiving in division of through class rates approximately the same earnings as proposed on Arkansas traffic, and in division of through commodity rates an equitable distribution of the shrink between the through commodity rates and the through class rates will result. This will also result in the establishment of percentages between all points in St. Louis Territory and all Louisiana points (Tr. 5344-5345).

No divisions are in effect between points in St. Louis Territory and points in Louisiana via the Cairo-Gale-Thebes Gateways, and there is probably no necessity therefor, as the St. Louis Gateway is the natural route, and no necessity has developed in the past for divisions through the Cairo-Gale-Thebes Gateways (Tr. 5345-5346).

(The statement described by the witness was thereupon received in evidence as Exhibit A-175.)

[fol. 1005] The rate of $1.90½ to Monroe, Louisiana is the joint throught rate from St. Louis territory. That is also the rate to St. Louis. I mean by shrinking the first block in the first class rate .92, the difference between the percentage where the traffic was hauled upon the through rate and where it will be hauled upon the local rate. I don't think we ought to get our local rate on this. I have shown the shrink on the sheet from these various stations, but if you follow my testimony, I did not comment upon how much we were shrinking. I treated the Western Trunk

Lines and the Southwestern Lines impartially in that respect (Tr. 5346-5357).

My Exhibit No. A-176 comprises one sheet and covers divisions on cheese, carload, from Wisconsin Group, including Milwaukee, Wisconsin, to Monroe, Louisiana, via East St. Louis, Illinois. I have shown the through rates from Wisconsin Group, Chicago Group and St. Louis, Missouri, and East St. Louis, Illinois, to Monroe, Louisiana, recently published. It will be observed that the Wisconsin Group, which includes Milwaukee, Wisconsin, carries a spread over the Chicago Group of 18 cents per 100 pounds, and the Chicago Group a spread of 11 cents over St. Louis, Missouri-East St. Louis, Illinois, whereas prior to December 1, 1925, Milwaukee and Chicago Territory third-class differentials over East St. Louis were 18.5 cents per 100 pounds, so that in connection with the present through rates the Chicago spread over East St. Louis has been reduced, and the Wisconsin Group which includes Milwaukee is as much over the Chicago Group as formerly existed over East St. Louis. I mention this as justification for the Southwestern Lines receiving Chicago revenue on all traffic to and from Milwaukee and Fox River Territories, and that there is no reason why the Southwestern Lines should receive Chicago revenue less the original spread of 4 cents which currently is 6 cents over Chicago and which was originally the spread Milwaukee Territory over Chicago. [fol. 1006] The spread in the rates Milwaukee over Chicago Group if any, rightfully accrues to the Western Trunk Lines, and further, this exhibit has been prepared to show that in the opinion of the Southwestern Lines there is justification for a spread in the joint through rates Milwaukee Territory over Chicago on all traffic, and as the local rates between Milwaukee Territory and East St. Louis, Cairo-Gale-Thebes, Illinois, and Ohio River Crossings east thereof, also Mississippi Valley points, are higher than the rates to or from Chicago, this same condition should be reflected in the through rates to and from Louisiana points, so that by allowing the Southwestern Lines Chicago revenue the Western Trunk Lines would receive the spread in the through rates Milwaukee Territory over Chicago for their added service, and the Southwestern Lines would receive Chicago revenue as they did prior to the elimina-

tion of the Milwaukee differentials and substitution of the Chicago differentials therefor (Tr. 5347-5348).

(The statement described by the witness was thereupon received in evidence as Exhibit A-176.)

[fol. 1007] My position is that the rates from Milwaukee should be made and established over the rates from Chicago by increasing the Milwaukee rates as they exist now, then that the Southwestern Lines should take out of the Milwaukee rates, earnings on the basis of the Chicago rates and that the arbitrary over Chicago ought to accrue to the northern lines. That is the way I think it ought to be fixed. But as far as the Western Trunk Lines are concerned today why they are just as good off with the Chicago rate, because they are getting that original spread. The Southwestern Lines are the ones that are suffering, if there are any sufferers. We originally received Chicago revenue at a time when Milwaukee enjoyed a spread over Chicago and the Western Trunk Lines. They received Chicago revenue plus that spread. Now when the Milwaukee differentials were eliminated entirely and the Chicago differential extended, the Southwestern Lines continued to allow the Western Trunk Lines the same revenue that they formerly received on Milwaukee traffic and that is the point that I don't think is right. Now by doing that it would have the same effect on Fox River traffic (Tr. 5348-5349).

The reason I am presenting this exhibit particularly is to show, for example, the Commission made these rates on cheese. The Southwestern Lines are receiving the spread Milwaukee over Chicago, as I recall, participating in that which I don't think we are entitled to, but under the present method of dividing it we are entitled to it. I think that should be done on traffic in both directions. There is very little traffic that moves northbound on these rates. Now lumber may be a situation, but you have got oil where you do enjoy a spread. As I recall it Milwaukee is I think on Chicago basis on lumber. I don't see any distinction (Tr. 5350-5351).

My Exhibit No. A-177 comprises one sheet and covers sugar from interior Louisiana points from which the rates are the same as from New Orleans, Louisiana. In such cases the Western Trunk Lines require the same earnings

[fol. 1008] as on the same traffic from New Orleans, Louisiana, and for that reason I have shown the rates from New Orleans, Louisiana, to Peoria and Chicago, Illinois, Milwaukee, Wisconsin and St. Paul, Minnesota, and the earnings of the Western Trunk Lines and the Southwestern Lines resulting from the application off the New Orleans divisions via St. Louis, Missouri-East St. Louis, Illinois, and via Thebes, Illinois. The Southwestern Lines maintain that whatever the percentages are applicable to and from interior Louisiana points should apply on this traffic, and in justification therefor, I desire to quote the following from decision of the Interstate Commerce Commission in I. C. C. Docket No. 11893, involving divisions on Sugar from interior Louisiana points via rail lines to New Orleans, Mississippi-Warrior service to East St. Louis and Western Trunk Lines beyond, as shown on page No. 537: "The principal question which we must decide, in fixing the fair and equitable divisions of the joint rates in which the Barge Line participates, is how far the conditions extraneous to the service which influence the divisions of the corresponding all-rail rates may justly be taken into consideration. In the process of fixing divisions by agreement, it is customary for the carriers to make full use of such strategetic advantages as the northern lines and the Louisiana Lines enjoy in this instance, both with respect to the joint all rail rates and with respect to the joint rail-barge-rail rates. The northern lines are not interested in the establishment of low blanket rates from Louisiana interior points, and, therefore, in dividing these rates they threw the burden upon the Illinois Central or the Missouri Pacific Railroads. In like manner some of the Louisiana lines are not interested in the movement of the traffic by way of New Orleans, and, therefore they throw a further burden upon the intermediate lines" (Tr. 5351-5352).

[fol. 1009] I am also quoting from the same decision, page 544, the following: "In determining the divisions accruing to the northern lines, there should be deducted from the corresponding all-rail rate, 3 cents per 100 pounds for the bridge crossing at Cairo, and also the division of the originating Louisiana Line, but not to exceed 10 cents per 100 pounds. To the remainder thus obtained should be applied the established percentages used in the case of all-rail sugar traffic from New Orleans" (Tr. 5352).

The above decision of the Interstate Commerce Commission in the opinion of the Southwestern Lines fully justifies their contention that whatever percentages are established for application to and from interior Louisiana points should be applied on this traffic, because an undue burden is placed upon the intermediate lines operating between Louisiana junctions and St. Louis, Missouri-East St. Louis, Illinois, or Thebes, Illinois. The situation is not confined to sugar, but obtains on other commodities produced within the State of Louisiana, such as molasses and syrup, potatoes and cabbage and oyster shells (Tr. 5352-5353).

(The statement described by the witness was thereupon received in evidence as Exhibit A-177.)

[fol. 1010] These divisions apply for example from "points on the M. L. & T. except," then I have noted the exceptions, and then the list of lines shown later. This exception is applicable also to those lines. It does not apply from all points on the Texas & Pacific Railroad and New Orleans, Louisiana. These New Orleans percentages are applied only from and to points in Louisiana on sugar and which points carry New Orleans rates only (Tr. 5353).

The blanket application should be limited by the statement that it only applies where the New Orleans rate has been extended to those points. The trouble could be cured by increasing the rates from the interior points and I suppose that the Louisiana lines could explain the reason for these rates better than I can. I have merely quoted here what the Commission themselves had to say with respect to the division of these rates, their views and their final decision in the case. The Missouri Pacific or the Illinois Central were not represented at that meeting and I have merely quoted the two or three paragraphs from that decision. It does throw an undue burden upon the intermediate lines, there is no question about it. The primary reason for the burden is the extension of the rate made to New Orleans to intermediate points. My next exhibit covers a similar situation on Molasses and Syrup from interior Louisiana points (Tr. 5354).

(The statement referred to by the witness was thereupon received in evidence, as Exhibit A-178.)

[fol. 1011] The same situation applies with respect to Exhibit A-178 as to Exhibit A-177 (Tr. 5354).

My exhibit No. A-179 also covers a similar situation on Potatoes and Cabbage and my Exhibit No. A-180 covers the same situation on Oyster Shells, originating at Berwick, Houma and Morgan City, Louisiana, which are local points on the Southern Pacific Lines in Louisiana. In connection with oyster shells, I desire to mention that one of the Western Trunk Lines have already agreed with the Missouri Pacific Railroad to deduct the proportions received by the Southern Pacific Lines to New Orleans and divide the remainder on the New Orleans basis of divisions. If however, through percentages were established in the manner I have indicated a number of times previously in my testimony, and such percentages are applied to the through rates, the situation would be remedied (Tr. 5355).

(The two statements described by the witness were thereupon received in evidence, as Exhibit A-179 and A-180, respectively.)

[fol. 1012] My Exhibit No. A-181 comprises four sheets and covers the division of rates between Chicago, Illinois, and Oklahoma points via East St. Louis, Illinois. Currently the Western Trunk Lines receive Missouri River proper revenue on this traffic. The divisions between Chicago, Illinois, and points taking same rates, and lower Missouri River Crossings via East St. Louis are 47½ per cent for the Illinois Lines and 52½ per cent for the lines between St. Louis, Missouri, and lower Missouri River Crossings, first deducting river transfer of 8 cents per 100 pounds on the first four classes and 3 cents per 100 pounds on all other classes. These divisions were arranged in 1892, and the same basis obtains to and from points in Kansas and Nebraska, also Southwest Missouri (Tr. 5355-5356).

Between Chicago Territory and practically all of the territory in Kansas, Nebraska and Southwest Missouri, including Oklahoma points, the through rates were on the full Kansas City, Missouri, combination and it was then proper to allow the Western Trunk Lines Missouri River proper revenue. I have been unable to obtain the tariffs as far back as desired, however, I have shown on Sheet No. 1 the

through rates between Chicago, Illinois, and Oklahoma City, Oklahoma, also the local rates between Chicago, Illinois, and Kansas City, Missouri, and the local rates between Kansas City, Missouri, and Oklahoma City, Oklahoma. It will be observed that the combination on Kansas City in 1894 and 1896 on some of the classes at that time were the same as the joint through rates, and on some of the classes the through rates were somewhat lower than the combination. The through rates and the combinations on succeeding dates shown on Sheet No. 1 of this exhibit indicate the spread between the combinations over Kansas City and the through rates gradually became greater, so that currently the through rates between Chicago, Illinois, and Oklahoma City, Oklahoma, are considerably less on each class than the full Missouri River combinations, not- [fol. 1013] withstanding which the Western Trunk Lines are receiving full Missouri River revenue and the lines between St. Louis, Missouri, and Oklahoma City, Oklahoma, assume the entire shrink between the full combination over Kansas City and the joint through rates, and the Western Trunk Lines continue to receive full Missouri River revenue the same as they did originally when the joint through rates were on the full Missouri River combination. What I have said with respect to Oklahoma City is true of all other Oklahoma points (Tr. 5356-5357).

On Sheets 2, 3 and 4 of this exhibit I have shown the divisions between Chicago, Illinois, and scattering points in Oklahoma. Taking Woodward, Oklahoma, shown at the top of Sheet 2, I have shown the current joint through rates, also the current combinations over Kansas City and the amounts on each class that the Kansas City combination is in excess of the through rates. In Block "C" I have shown the current percentages to the Western Trunk Lines and to the Southwestern Lines, and the result in divisions to each group of lines in cents per 100 pounds on each class. In Block "D" I have shown what the lines between Chicago, Illinois, and East St. Louis, Illinois, would receive currently if the proportions as agreed to via Kansas City, Missouri, were subdivided via East St. Louis, Illinois, on agreed percents, and the divisions that would accrue to the Illinois Lines on each class on that basis. In Block "E"

I have shown a similar information except that I have used a division of 50 per cent for the Illinois Lines instead of 47½ per cent, the latter being the agreed division in subdividing the agreed proportions east of Kansas City (Tr. 5357-5358).

In Block "F" I have shown the current divisions received by the Illinois Lines between Chicago, Illinois, and points taking same rates, and East St. Louis on traffic to or from Woodward, Oklahoma, which is based on the Illinois [fol. 1014] Lines receiving full Missouri River revenue. A comparison of the divisions received by the Illinois Lines as shown in Block "F" compared with Blocks "D" and "E" indicate that the Illinois Lines are receiving substantially in excess of what they are rightfully entitled to. There is also shown in Block "F" the revenue on each class accruing to the lines between East St. Louis, Illinois, and Woodward, Oklahoma. By a comparison of the divisions with the local rates from East St. Louis shown in Block "A" it can be readily seen that the lines between East St. Louis, Illinois, and Woodward, Oklahoma, are making substantial shrinks in their earnings below their local rates from East St. Louis, whereas, when the rates at one time were on the full Missouri River combination the shrink by the lines from East St. Louis, Illinois, and Woodward, Oklahoma, are making substantial shrinks in their earnings below their local rates from East St. Louis, whereas, when the rates at one time were on the full Missouri River combination the shrink by the lines from East St. Louis to Woodward, Oklahoma, were not proportionately as great as they are at the present time, because as pointed out the through rates currently are considerably lower than the Missouri River combination (Tr. 5358).

This same situation obtains at all other Oklahoma points, and for the purpose of this proceeding I have shown the same information with respect to divisions between Chicago, Illinois, and Enid, Oklahoma City, Muskogee, Lawton and Ardmore, Oklahoma. With the exception of Muskogee, Oklahoma, the percentages shown as accruing to the Western Trunk Lines east of Kansas City, Missouri, reflect the recent agreement made effective July 1, 1925 as

approved by the Interstate Commerce Commission in connection with I. C. C. Docket No. 15234. It certainly cannot be said that the lines between Chicago and points taking same rates and East St. Louis, Illinois, are not receiving sufficient revenue in the division of through rates on Oklahoma traffic, and if measured by the circumstances related, [fol. 1015] the Southwestern Lines are not justified in allowing the Western Trunk Lines in excess of their percentage proportion of the agreed proportions east of Kansas City. A substantial portion of the Oklahoma traffic handled through the East St. Louis gateway moves through Kansas City, Missouri, and is there delivered to or received from connecting lines, which lines rightfully receive the same earnings as via the direct lines between Chicago territory and Kansas City, so that in cases of that kind the entire burden rests upon the lines between East St. Louis and Kansas City. A substantial portion of this traffic is also interchanged with connecting lines at interior Kansas and Oklahoma junctions, and on all such traffic the lines between Chicago and East St. Louis, Illinois, receive Missouri River proper revenue, so that the lines operating westward from East St. Louis must assume the entire proportions of such connecting lines (Tr. 5358-5359-5360).

(The statement described by the witness was thereupon received in evidence as Exhibit A-181.)

[fol. 1016] The 8 cent deduction does not go to the lines west of East St. Louis. That goes to the Transfer Company. The Western Lines pay the transfer companies and the Illinois Lines participate in that transfer to the extent of 47½ per cent. We pay the terminals these amounts on the first class rates. On most of this traffic there are two terminal services involved. One is the Terminal Railroad Association of St. Louis, when the traffic crosses the Mississippi River in cars and is taken to freight houses and another transfer service when the traffic is taken from the freight house of, for example, the Wabash or the C. & E. I. or any other line on the West bank. It is reassembled and delivered to the West Side lines at their warehouses which are located at distant points somewhere. That is hauled sometimes by car and sometimes by dray. The sum of the two is in excess of this (Tr. 5360-5361).

On the through carload traffic I think the first class charge as I rceall it is 5 cents per hundred pounds. The other 3 cents would automatically accrue to the West Side Lines and they would receive that much in excess of their actual amount they paid out. They get 8 cents and would be ahead 3 cents. In other words, where drayage is in excess of 8 cents and there is a majority of this traffic, or a good big portion of this traffic at least which is drayed (Tr. 5361).

I wouldn't say that most of the traffic from Oklahoma comes to East St. Louis direct and not through Kansas City. I could only speak in that case for the Missouri Pacific. Naturally the Missouri Pacific would handle the most of its traffic through the St. Louis gateway. In some cases it would pass through Pleasant Hill, a junction point immediately south of Kansas City, but not right directly through Kansas City in all cases, unless the car was to break bulk at Kansas City, then it would be necessary to take it through Kansas City. On through traffic we don't [fol. 1017] haul through Kansas City. My proposal is that the lines north of East St. Louis should take 47½ per cent of the Oklahoma division which accrues east of Kansas City. From Woodward to Oklahoma that would give the lines north of St. Louis 34.3 cents. The local rate from Woodward to East St. Louis is not shown here. I don't recall what it is (Tr. 5362-5363).

What I want to bring out particularly with this exhibit is this, that there is no fault to be found with these divisions when they were originally established. The rates were on the Kansas City combination and I think the lines between Chicago and East St. Louis were rightfully entitled to Missouri River proper combinations. There can't be any question about it. Now I tried to point out by this exhibit that from time to time these joint through rates became less or lower and today you can scarcely find a single rate that is on the full Missouri River combination; notwithstanding that fact the lines between Chicago and East St. Louis and Missouri River points continue to receive Missouri River proper revenue. Now they certainly are receiving sufficient revenue when they continue to receive Missouri River proper revenue. That situation applies to all points in Chicago territory east and west of the Mississippi River. To

the territory west of the Mississippi River there I don't think any of that traffic would move through East St. Louis. It would move through Kansas City (Tr. 5363-5364).

I can't say that I am advocating a change here in these divisions north of St. Louis from 54 cents first class from Woodward down to 34.3 cents. I am just trying to point out that certainly the Western Trunk Lines are receiving sufficient revenue on the divisions of these through rates via East St. Louis; that they are now getting enough. I am trying to point out what the Western Trunk Lines would receive if these proportions east of Kansas City as recently agreed upon in connection with certain lines were subdivided on a certain percent, either 47½ or 50 per cent. It shows that they would get considerably less than they [fol. 1018] are receiving today. This question of division on Oklahoma traffic via East St. Louis, namely 47½ per cent of the local rate from Kansas City to Chicago was discussed as late as 1923. There was no insistence on our part that the basis which is now in effect was retained at that time. It seems that no one in Chicago knew what the basis was until I produced the original record and there wasn't any discussion as to the merits of it except to fix that division east and bring it up on that basis, that is all. I think that the Western Lines pay the transfer companies at St. Louis for bringing the L. C. L. traffic over to them $1.92 per ton, and I think it was a recent agreement that was made by the West Side lines with these transfer companies so as to eliminate all the accounting on the various classes. To take a simplified basis, that was an average arrived at (Tr. 5364-5365).

My next Exhibit No. A-182 comprises three sheets and covers divisions on petroleum and petroleum products, carload, from Southern Arkansas and Louisiana points. Sheet No. 1 of this exhibit, covers the divisions via East St. Louis, Illinois. In the first block I have shown the through rates from southern Arkansas and Louisiana points taking the same joint through rates as from Shreveport, Louisiana, as in effect on July 1, 1922 to Chicago, Peoria and Springfield, Illinois, also the divisions in percentages, and the results in cents per 100 pounds to the Western Trunk Lines and to the Southwestern Lines separately on refined, crude and road oil (Tr. 5365).

The divisions of 30 per cent for the Western Trunk Lines and 70 per cent for the Southwestern Lines is the current Shreveport, Louisiana percentages and by agreement as reflected in the copies of letters next below, addressed by Mr. W. I. Jones, A. F. T. M. of the Missouri Pacific Railroad to Mr. C. W. Galligan, Chairman, Illinois Freight [fol. 1019] Association, dated May 31, 1921, and Mr. Galligan's reply for account of the Illinois Lines dated June 30, 1921, indicate that these divisions were acceptable to the Illinois Lines for application on petroleum and petroleum products from Louisiana points taking the same joint through rates as from Shreveport, Louisiana, also from Southern Arkansas points from which the same joint through rates were published as from Shreveport, Louisiana. I have not shown the joint through rates from Louisiana points that are differentially higher than Shreveport, however, the agreement as indicated by copies of communications referred to below Sheet No. 1 indicate that the Illinois Lines agreed to accept the same revenue as from Shreveport, Louisiana. In the next block I have shown the joint through rates established effective October 8, 1922, to Chicago, Illinois, and effective January 28, 1923 to Peoria and Springfield, Illinois, and similarly to Milwaukee, Wisconsin, and Minneapolis-St. Paul, Minnesota, and the divisions accruing to the Illinois and Western Trunk Lines and the Southwestern Lines based on the agreement referred to (Tr. 5366).

It will be noted that the through rates were reduced; however, the Illinois Lines agreed subsequently to continue the original understanding referred to as to divisions. It will be noted that the 30 per cent division which is applicable to Chicago also applies to Peoria and Springfield, Illinois, this because Peoria and Springfield are located in Chicago Territory; however, on refined, crude and road oil, the joint through rates to Peoria and Springfield are lower than to Chicago, so that under the percentage arrangement, the Southwestern Lines receive less to Peoria and Springfield as to Chicago, and this is also true of the Western Trunk Lines; however, because of the shorter hauls between East St. Louis and Peoria and Springfield, Illinois, as compared with Chicago, the Southwestern Lines ought to receive not less than Chicago revenue; however, this

[fol. 1020] would not be fair to the Western Trunk Lines because the 30 per cent division north of East St. Louis is also applicable to Illinois points located in Chicago territory to which the distances from East St. Louis are greater than to Chicago, so that it seems proper that whatever percentages are applied to Chicago territory should be applied to the entire territory as they are; however, that does not indicate that the Southwestern Lines believe that the 30 percent division is proper to Chicago Territory on this traffic as I have previously indicated in connection with the general question of divisions on Louisiana traffic (Tr. 5366-7).

I have also shown the divisions to Milwaukee, Wisconsin, and it will be observed that the spread in the rates Milwaukee, Wisconsin, over Chicago exceed the spread in the divisions received by the Western Trunk Lines, so that this again brings out the point previously made several times that the Southwestern Lines should receive Chicago revenue on traffic to or from Milwaukee and Milwaukee Territory. In this case it would allow the Western Trunk Lines slightly in excess of the divisions as shown. What I have said of Milwaukee Territory is also true of Minneapolis-St. Paul Territory, that is, the Southwestern Lines should receive Chicago revenue, and the Western Trunk Lines should also receive Chicago revenue, plus the spread in the rates whatever that may be. This of course would slightly reduce the earnings of the Southwestern Lines on Milwaukee Territory and Minneapolis-St. Paul territory, because it will be observed that the Southwestern Lines receive slightly greater earnings on Milwaukee and Minneapolis-St. Paul Territories on the basis shown as they receive on Chicago traffic. I have next shown the through rates from North Texas points, and the divisions that have been and are currently in effect. It will be observed that effective October 8, 1922, to Chicago, and effective January 25, 1923 to Peoria and Springfield, Illinois, the through rates from Southern Arkansas and Louisiana points were reduced to [fol. 1021] the same level as from the Oklahoma standard group (Tr. 5367-8).

Following this reduction in the joint through rates, some of our Western Trunk Line friends are exacting Tulsa, Oklahoma revenue. This action was taken without notifica-

tion to, and acceptance by, the Southwestern Lines. Some of the Western Trunk Lines have continued the original agreement. I will speak of this further in connection with succeeding sheets of this exhibit. In regard to the merits of the division of 30 per cent from Shreveport and points in Louisiana taking the same rates, and from points in Southern Arkansas from which the Shreveport rates are published, the Southwestern Lines are of the opinion that the divisions on the current basis shown on this exhibit are excessive to the Western Trunk Lines. Beginning with Southern Arkansas and using Eldorado, Arkansas as a base point, because practically all of the oil coming from Southern Arkansas originates in the vicinity of Eldorado, Arkansas. I have shown first the relationship between the commodity rate on refined oil from Eldorado, Arkansas, to St. Louis, Missouri, and East St. Louis, Illinois, to the fifth-class rate. The commodity rate is 32.8 per cent of the fifth class rate. I have also shown the fifth class current rate from St. Louis, Missouri, and East St. Louis, Illinois to Chicago, using the latter as a base point, and applied thereto the percentage relationship that the commodity rate Eldorado, Arkansas, to St. Louis, Missouri, and East St. Louis, Illinois, bears to the fifth class rate, which would result in a theoretical commodity rate from St. Louis, Missouri, and East St. Louis Illinois to Chicago of 9 cents (Tr. 5368-5369).

Using as factors the theoretical commodity rate of 9 cents for the Western Trunk Lines, and the commodity rate from Eldorado to St. Louis, Missouri and East St. Louis, Illinois the Western Trunk Lines would receive 23.4 percent. [fol. 1022] Reversing the situation by determining the percentage relationship that the commodity rate St. Louis-East St. Louis, Illinois to Chicago, which by the way applies on refined, crude and road oil is of the fifth class rate, St. Louis-East St. Louis, Illinois to Chicago, it will be seen that the relationship that the commodity rate bears to the theoretical rate is 63.6 percent. Applying this relationship to the fifth class rate, Eldorado, Arkansas to St. Louis, Missouri-East St. Louis, Illinois would result in a theoretical commodity rate of 57 cents, Eldorado, Arkansas to St. Louis, Missouri-East St. Louis, Illinois. Using the 57 cent theoretical commodity rate for the Southwestern Lines, and

the commodity rate from St. Louis, Missouri-East St. Louis, Illinois to Chicago as factors, the Western Trunk Lines would receive 23.5 percent. I have next shown a rate prorate from Eldorado, Arkansas based on the fifth class rates for the Southwestern Lines and for the Western Trunk Lines, which would result in the Western Trunk Lines receiving 23.4 per cent (Tr. 5369-5370).

I have also shown the percentage relationship that the through commodity rate Eldorado, Arkansas to Chicago, Illinois bears to the joint through fifth class rate, which it will be observed is 35.6 percent, similarly, on crude oil the relationship is 29.2 percent and on road oil 30.2 percent. Applying the latter percentages to the current fifth class division published in Illinois Freight Association Division Sheet No. 5 of 20.5 percent per 100 pounds applicable between East St. Louis, Illinois and Chicago, Illinois, and points taking same rates, in division of the through fifth class rates, the Western Trunk Lines would receive to Chicago on refined oil 7.3 percent, on crude oil 6 cents and on road oil 6.2 cents. I point out all these circumstances to indicate that the division of 30 percent to Chicago Territory in Illinois received by the Western Trunk Lines currently [fol. 1023] is excessive. On the opposite side of this sheet I have made a similar comparison, using Shreveport, Louisiana as the base point for Louisiana points, and it will be observed that the Western Trunk Lines would receive slightly less from Shreveport, Louisiana as outlined previously from Eldorado, Arkansas. In the opinion of the Southwestern Lines there is no reason why petroleum should be selected for specific treatment in the matter of divisions, so that the basis of arriving at percentages that I have proposed on Arkansas and Louisiana traffic should be applied to petroleum and petroleum products. Additionally on petroleum and petroleum products destined Milwaukee Territory and Minneapolis-St. Paul territory, the Southwestern Lines should receive Chicago revenue as I have previously pointed out in division of the rates on petroleum and petroleum products as well as on all other traffic (Tr. 5370-5371).

The Southwestern Lines have been and are of the opinion that the practice of selecting the principal commodities for special treatment as to divisional arrangements should

be discontinued. This situation generally applies on the principal commodities produced in the Southwest and there are very few exceptions where special treatment in divisional arrangements are made on southbound business. As result of the special treatment on northbound commodities the result is that the Southwestern Lines usually receive less revenue than they would receive by the application of standard divisions, and we desire this practice discontinued. I don't recall the rate which Examiner Seal recommended on petroleum from Louisiana and Arkansas. The revenue of the Southwestern Lines are derived principally on northbound commodities and as a result of this special treatment they generally receive proportionately less revenue than on other traffic (Tr. 5371-5372).

Sheet No. 2 of this exhibit deals with the question of divisions on petroleum and petroleum products from [fol. 1024] Shreveport, Louisiana via the Kansas City, Missouri gateway, and for illustration, I have selected Chicago for discussion. What is true of Shreveport, Louisiana, is also true of other Louisiana points from which the same rates are in effect. It will be observed that effective July 1, 1922, the Western Trunk Lines received 40 percent. This is the agreed Shreveport Division, regarding which there has been no dispute, and there is no dispute on traffic other than petroleum, and the dispute is not one between the Southwestern Lines and the Western Trunk Lines, but is the result of arbitrary action taken by the Western Trunk Lines, by which the Western Trunk Lines have exacted the same revenue on petroleum from Louisiana points taking the Shreveport rates as they receive currently from Tulsa, Oklahoma in division of the rates as established on and after October 8, 1922, which were placed on the same basis as the standard Oklahoma group. I have shown the rates as established on October 8, 1922, and what the Western Trunk Lines and the Southwestern Lines would receive on the basis of the agreed percents (Tr. 5372-5373).

Next I have shown what the Western Trunk Lines are arbitrarily exacting without the consent of the Southwestern Lines, that is, the same revenue as from Tulsa, Oklahoma, which is 52 percent for the Western Trunk Lines. The result in divisions in cents per 100 pounds on refined,

crude and road oil are shown for the Western Trunk Lines and the Southwestern Lines, and it will be observed that in division of the reduced rates from the Shreveport group established October 8, 1922, that the Western Trunk Lines receive considerably in excess of what they formerly receive in division of the higher rates from the Shreveport group at which time there was no dispute whatever. I have shown on sheet 3 the same information with respect to Eldorado, Arkansas. The rates from Southern Arkansas points are the same as from Shreveport, however, there are no divisions from southern Arkansas local points to Chicago ter-
[fol. 1025] ritory or any point in Western Trunk Line Territory located east of the Mississippi River via Kansas City, Missouri, because the Southwestern Lines have never established any divisions and desire none, because the route through Kansas City as compared with the St. Louis gateway is circuitous, however, it is not possible to confine the rates to the St. Louis gateway. I have shown the divisions using Shreveport percentages for the Western Trunk Lines in division of the rates in effect on July 1, 1922, and on the same basis in division of the rates established October 8, 1922. I have also shown in the third block what the Western Trunk Lines are exacting in division of the reduced rates. It will be observed that the Western Trunk Lines are requiring Tulsa, Oklahoma revenue without agreement with the Southwestern Lines, and that in division of the reduced rates from Eldorado, the Western Trunk Lines are receiving greater revenue than they did receive in division of the higher rates based on the Shreveport percentages (Tr. 5373-4).

I have also shown on this sheet the distance from Eldorado, Arkansas, via the Missouri Pacific Railroad to Kansas City, which is 653 miles, and the short line distance from Kansas City to Chicago, on a mileage pro-rate the Western Trunk Lines would receive 41 percent. I have also shown the distance via the Rock Island from Eldorado, Arkansas to Kansas City, which is 892 miles, and the divisions based on an actual mileage pro-rate by the use of the Rock Island Line, which would accord the Western Trunk Lines 33.6 percent. It will be observed from this exhibit that the distance from Tulsa, Oklahoma to Kansas City via the St. L. S. F. Railway is 262 miles, whereas,

from Eldorado, Arkansas via the Missouri Pacific Railway the distance is 653 miles, and via the Rock Island 892 miles, notwithstanding which some of the Western Trunk Lines are requiring and making settlements without agreement with the Southwestern Lines on the basis of Tulsa revenue forcing the Southwestern Lines to handle the traffic from Eldorado to Kansas City, Missouri for distances of 653 [fol. 1026] miles via the Missouri Pacific Railway and 892 miles via the Rock Island for the same revenue as received by the St. L. S. F. Railway or any other line from Tulsa, Oklahoma for a distance of 262 miles (Tr. 5374-5375).

I have also shown the distance from Eldorado to East St. Louis, via the Missouri Pacific Railway, which is 500 miles as compared with the distance from Kansas City, Missouri via the Rock Island. The Missouri Pacific Railway performs 153 miles greater service to Kansas City as to East St. Louis; on the other hand the distance from Kansas City to Chicago via the short line is 173 miles greater than from East St. Louis to Chicago, Illinois using the short line; so that the divisions via East St. Louis, Illinois whatever that may be should be equalized via Kansas City, because the additional service of the Southwestern Lines to Kansas City as compared with East St. Louis is equal to the additional hauls of the Western Trunk Lines from Kansas City as compared with East St. Louis. Several of our Western Trunk Line friends have agreed to apply the agreed percentages in division of the rates on and after October 8, 1922, and there is no reason why all of the Western Trunk Lines should not live up to the original agreement on prior business (Tr. 5375-6).

(The statement described by the witness was thereupon received in evidence as Exhibit A-182.)

[fol. 1027] The rates shown in the last sheet of this exhibit, Eldorado to Kansas City are not applicable. They are in effect. We also have through rates from Cushing via Kansas City at this time (Tr. 5376).

We have few ore shipping points, I believe in Louisiana immediately south of Shreveport proper a short distance where they have differentials down there and under the agreement with the Illinois lines as shown by the correspondence below that first exhibit, why our proposal was and

the Illinois lines agreed to accept, Shreveport revenue in that case there. Those differentials accrue to the Southwestern Lines. The reduction made in 1922 was the same as the Tulsa rate. The reduction had the effect of enlarging the scope of the territory from which the Tulsa rate applied (Tr. 5377).

This reduction had the effect of increasing the service from the territories south from which the distances were greater than from Tulsa. This action was taken by one of the Southwestern Lines by a definite notice and the rates published. All other Southwestern Lines immediately followed that action. I don't think that the effect of that reduction was exactly the same on the revenues of the Western Trunk Lines as the application of the Chicago rates to the Milwaukee territory. Based on what they are doing today, why they took greater revenue out of the reduced rate. That is shown conclusively by these sheets here. They are taking Tulsa revenue, most of them. My contention is that the 30 per cent north applied from the enlarged territory (Tr. 5378).

We had a subsequent agreement with most of the lines north of East St. Louis that they would take the 30 per cent under the reduced rate. To that extent they have participated in that reduction of the rate and the enlargement of the territory. There is a difference in the enlargement of the Chicago territory. We carry these rates all over. We don't confine them merely from Arkansas and Southern Louisiana to Western Trunk Line territory on the Tulsa [fol. 1028] basis. We carry them all over, whereas the Western Trunk Lines on traffic from Milwaukee to the Southwest place their rates on the Chicago basis but locally to East St. Louis and Cairo on their Ohio River crossings and the Mississippi Valley, they carry higher rates and there is that distinction. We reduced the rates and then we reduced the divisions while some of the lines have continued the old divisions, some of the lines are taking more money than they formerly received. That is being done arbitrarily by the Western Trunk Line without notification to us. They are merely taking that revenue, that is some of them (Tr. 5379-80).

We are having trouble not only through Kansas City but are having some trouble through St. Louis. If it moves on

through way bill we are going to have that trouble. On some of the lines we are getting that revenue. Again it may be on some of the lines, it may be possible it is being reduced. There is no connection at all between this 36 cent rate to which I refer and the class basis. The Southwestern Lines are not now getting Chicago revenue on Milwaukee traffic in divisions (Tr. 5380).

Those lines in Western Trunk Line territory that are taking Tulsa revenue are getting it, are getting more out of the reduced rate than they formerly received out of the higher rate; whereas the Southwestern Lines instead of getting the Chicago revenue as they formerly got are getting less than Chicago revenue. The 36 cent rates were established by definite notice of the Western lines. As to the question of concurrences on the Western Trunk Lines, Mr. Leland has power of attorney of all of the Western Trunk Lines that are shown in his tariffs. The Southwestern Lines do not give Chairman Leland that much authority. We legislate on our rates. We don't give him power of attorney to fix any rates as he chooses, but the Western Trunk Lines have given him more power than the Southwestern Lines (Tr. 5381).

[fol. 1029] I don't think Chairman Leland is any more the Southwestern Lines' Chairman than the Western Trunk Lines, not as much so. The Rock Island Railroad is also a member of the Southwestern Tariff Bureau. Any action taken by the Rock Island would extend to Western Trunk Line territory on their own line. The Rock Island in fact is the line that filed the definite notice, as I understood it. That was followed by the other Southwestern Lines operating in the same territory. If other Southwestern Lines had not followed the example of the Rock Island, why the Rock Island would have gotten all the traffic over their own rails to competitive points (Tr. 5382).

The Missouri Pacific was allotted a few of the commodities as I recall it cotton seed products and fruits and facilities vegetables and ores from Arkansas and northern Louisiana and Oklahoma and salt from Louisiana. I didn't have sufficient time to go into the question of divisions on these commodities. I may desire to make a few remarks later, provided there is time.

Exam. Disque: Cross-examine.

Mr. Towner: No cross-examination other than the cross-examination that I have already made (Tr. 5382-3).

A. J. LEHMANN was thereupon called as a witness and testified as follows:

Direct examination:

I am Assistant General Freight Agent, St. Louis Southwestern Railway, St. Louis, Missouri.

(Attorney Towner here conceded the witness's qualifications.)

I have prepared some testimony which will deal with the division of rates on lumber and forest products grouped therewith from the Southwest to Western Trunk Line Territory and Illinois Freight Association Territory via the Cairo-Gales-Thebes and East St. Louis-St. Louis gateways (Tr. 5384).

[fol. 1030] Prior to March 1, 1905 there were no joint through rates in effect on lumber or articles grouped with lumber from shipping points on the St. Louis Southwestern Railway to destinations in so called Western Trunk Line Territory. On March 1, 1905 we issued our tariff 3796, I. C. C. 2201, which published through rates from a limited number of origins to a limited number of destinations. Those rates were a reproduction of joint through rates in effect at that time from points on the St. Louis, Memphis & Southeastern Railway, now the Frisco, and from points on the St. Louis, Iron Mountain & Southern Railway, now the Missouri Pacific. That tariff remained in effect only during a short period because it was found that the through rates contained therein were in excess of the aggregate-of-intermediate rates. We subsequently published our tariff 4690, I. C. C. 2649, effective May 1, 1907, and that tariff named arbitraries from the producing points to Thebes, Illinois and the arbitraries from Thebes to destinations in Western Trunk Line territory, the combination of the two factors representing the total through rates, origin to destination.

In dividing such rates, the lines south of Thebes received their established factor up to that point and for service Thebes to East St. Louis 3 cents per 100 pounds, the lines north of East St. Louis received 3 cents less than their full local rate, from Thebes (Tr. 5385).

Effective March 10, 1908, we published our tariff 2995, I. C. C. 2762, which named through rates in one figure from all of our shipping points to all destinations in Western Trunk Line territory where routing was published via the East St. Louis gateway. These through rates also divided by allowing the lines south of Thebes the local rate and from Thebes to East St. Louis being allowed 3 cents less than the established local rate from Thebes. That basis of divisions remained in effect for quite a period. When that through rate was published it was nothing more nor less than a combination of the local rates via Thebes, Ill. With this 3 [fol. 1031] cents allowance to take care of the service from Thebes to East St. Louis. During the period from March 1, 1905 up until July 31, 1913, there was little or no dispute as between the originating lines and the destination lines, as to the proper divisions to be applied on lumber traffic moving from the Southwest to Western Trunk Line Territory, but on September 2, 1913 the Western Trunk Lines without the knowledge or consent of their Southwestern connections issued what was known as Western Trunk Lines Division Sheet No. 520, making it retroactive effective with August 1, 1913 (Tr. 5586).

The effect of that sheet was to require north of East St. Louis the full local rate, and under the application of that sheet, if it had remained in effect, the shrink necessary to allow the local would have been assumed by the lines south of East St. Louis. The effect of that was also to disregard entirely the established basis for determining rates from the Southwest to Western Trunk Line Territory; that was the Thebes combination. The St. Louis Southwestern Railway had considerable correspondence with it's northern connections in an effort to induce them to withdraw the unauthorized division sheet and reinstate the basis previously in effect which allowed lines to Thebes the local rate and 3 cents per 100 pounds from Thebes to East St. Louis but it's efforts in that direction were unsuccessful. The local

rate north of East St. Louis was 1 cent more than the local rate north of Thebes with the 3 cent deduction. The spread Thebes over East St. Louis at the time these rates were originally established was 2 cents per 100 pounds (Tr. 5387).

In other words we had our local rate to Thebes and from Thebes to East St. Louis 3 cents per hundred pounds. The lines north of East St. Louis got substantially 1 cent per hundred pounds less than our local rate from East St. Louis. We considered it to be not to our interest to continue the then existing rates and allow the increased proportions to lines north of East St. Louis and consequently [fol. 1032] issued a tariff, St. Louis Southwestern Railway No. 6295, I. C. C. 3259, which increased the total through rates in an amount corresponding with the advances demanded by the lines north of East St. Louis.

The difference between our local rate to Thebes and our local rate to East St. Louis was 3½ cents per hundred pounds, the East St. Louis rate being the highest (Tr. 5388).

In connection with this tariff we showed on the title page the following notation "the advanced rates on lumber and other forest products provided herein are the result of readjustments necessary to allow the increased proportion demanded by the lines north of East St. Louis which increased proportions will be allowed effective with the advanced rates." The tariff was not permitted to become effective but was made the subject of suspension proceedings covered by I. & S. Docket 299 reported in 30 I. C. C. 271. In that proceeding the Commission prescribed a division of 18 cents per 100 pounds for the lines south of East St. Louis and the balance for the lines north on the ground that the proportion for the Cotton Belt Railroad south of East St. Louis should not exceed the proportion that other Southwestern Lines at that time were accepting on like traffic moving substantially from the same producing territories to the same points of destination in Western Trunk Line Territory. After the decision in this case the interests of Southwestern Lines and member lines of the Western Trunk Line committee met in conference for the purpose of arranging the publication of a joint division

sheet on lumber from the Southwest to points in Western Trunk Line Territory, the basis for which via East St. Louis was the division prescribed by the Commission in I. & S. docket 299, that is 18 cents per 100 pounds south of East St. Louis and the balance of the through rate for lines north of East St. Louis. The first committee sheet was issued to become effective May 1, 1917 and was known as [fol. 1033] Southwestern Lines Division Sheet No. 27, Western Trunk Lines Division Sheet No. 520-A; so that it may be fairly said at this time that the divisions currently in effect on lumber from the Southwestern producing territory to destinations in Western Trunk Line Territory have already been fixed by the Commission (Tr. 5388-9-90).

I should now like to introduce exhibit No. A-183. This exhibit is a statement of rates and divisions on lumber from representative shipping points in the Southwest to representative destinations in Western Trunk Line Territory. The points selected are, in my opinion, fairly representative of the destinations to which there is a substantial movement of lumber from the producing territory in the south and shows the joint through rates and the divisions there for the beginning with May 1, 1917, which as I have previously stated was the date upon which the first joint division sheet was issued, up until the present time. The arbitraries as of May 1, 1917 will be observed were determined on the basis of using for the lines south 18 cents per 100 pounds and certain specifics which were set forth for the lines north. In the succeeding column is shown the percents which were determined by using the divisional factors up to and beyond East St. Louis. The changes as of March 1, 1920 represent the 5 cents increase prescribed under general order 28 of the Director General. The August 26th changes of course represent the ex parte 74 advance. I will explain the basis for the mileage south of the gateway later (Tr. 5390).

The date August 19, 1921 represents an adjustment that was made in our rates from the Southwest to Western Trunk Line Territory following a reduction that had been made to the same territory of destination from north coast shipping points. The June 12th 1922 changes as shown in

the exhibit are those which resulted from the decision of the Commission in the so called Harwick Case, I. C. C. [fol. 1034] docket 12,995. The july 1st reductions are those prescribed under I. C. C. 13,293. The changes as of November 2, 1922 and March 20, 1924 were simply for the purpose of removing certain fourth section departures that had been found to exist in the adjustments. The last set of figures represents the present rates and in connection with the present rates I want to ask attention to the fact that as to Cedar Rapids, Des Moines, Marshalltown and St. Paul that the revenue percents are substantially the same as those shown in connection with the March 1, 1917 rates; that is to say the present rates to the points that I have just mentioned were determined on the basis of using for lines south of East St. Louis 18 cents, and for lines north of East St. Louis the proportions set opposite the March 1, 1917 rates and divisions. Departures in that basis occurred at two or three points. Hannibal for example or rather opposite Hannibal for example we show for lines south 18 cents, and for lines north 6½ cents; percents, south 73.5, north 26.5, whereas in connection with the present divisions we show percents, south 70.5, and north 29.5 (Tr. 5391).

That change in percent is the result of Ex Parte 57, in which the lines north of East St. Louis, Cairo-Gale-Thebes were permitted to increase their lumber rates from those crossings 1 cent per 100 pounds, so that the percent shown opposite Hannibal in connection with the present rates were determined on the basis of using for the lines south 18 cents as of June 24, 1918, and for the lines north 7½ cents instead of 18 cents for lines south and 6½ cents for lines north as of May 1, 1917. The divisions opposite Dubuque and Davenport as of May 1, 1917 also differ somewhat from those shown opposite the present rates. That is due to the fact that on March 1, 1917 the lines north of East St. Louis on Davenport and Dubuque traffic required their local rate of 8½ cents to Davenport and 10.1 to Dubuque [fol. 1035] whereas the present divisions are determined in substantially the same manner as are the divisions on lumber traffic generally from the Southwest to points beyond the Mississippi River crossings, that is to say the

divisions are predicated upon 16 cents for lines south of Thebes and 11½ cents for lines north, which is equivalent in percent to 58.2 south and 41.8 north. The arbitrary of 11.5 for lines north of Thebes divided via East St. Louis by allowing Thebes to East St. Louis 3 cents or 26.1 percent, and north of East St. Louis 8½ cents or 73.9 percent; to Dubuque the present divisions were determined by using for lines south of Thebes as of June 24, 1918 16 cents per 100 pounds, and for lines north 13.1 cents per 100 pounds, which is equivalent to 55 percent south of Thebes and 45 percent north (Tr. 5392-5393).

The arbitrary of 13.1 cents for lines north of Thebes subdivided Thebes to East St. Louis 3 cents or 22.9 percent, and from East St. Louis to destination 10.1 cents, or 77.1 percent. I might mention in passing that we have had no dispute whatever since May 1, 1917 with our northern connections in the connection with the division of rates on forest products as changes have been made in the total through rates from the blanket territory. The Southwestern and the Western Trunk Lines agreed to use percents determined by using the June 1924 factors in arriving at the divisions of the changes that have been made since May 1, 1917. Roughly speaking the blanket territory embraces, that is roughly speaking, the Southwestern Blanket territory embraces that part of the United States which lies south of the Arkansas River and west of the Mississippi River to and including the Gulf of Mexico. It would include everything south of the Arkansas River (Tr. 5393). [fol. 1036] The divisions as shown in Exhibit A-183 are also being applied to the destination territory from the intermediate territory so far as the Western Trunk Lines are concerned. The Western Trunk Lines accept the same earnings north of the gateways on intermediate traffic as they do from the traffic from the blanket territory itself. The Thebes divisions shown are those which were fixed by the Commission in the report to which I have referred. On sheet 3 under the November 2, 1922 block to Winona, Minnesota, the mileage south should read 697 instead of 465. The percents have been based on 697 miles (Tr. 5394).

(The statement described by the witness was thereupon received in evidence as Exhibit A-183.)

[fol. 1037] A statement thereafter described by the witness was thereupon offered in evidence as Exhibit No. A-184 (Tr. 5394).

(The statement referred to was thereupon received in evidence as Exhibit A-184.)

[fol. 1038] The Witness: This exhibit is a statement of rates and divisions on lumber and other forest products from representative shipping points in the Southwest to representative destinations in Illinois Freight Association Territory and to points in northern Wisconsin via Thebes, Illinois, thence East St. Louis, Illinois. The basis for the through rates from Southwest to points in Illinois and to points in Wisconsin is the same as the basis employed in the determining of rates on lumber to other points east of the Mississippi River, that is a combination via Thebes as of June 24, 1918 modified by General Order 28, Ex Parte 74, and ICC docket No. 13,293. For a long period of time the rates determined in the manner which I have just described divided by allowing the lines south of Thebes their local or proportional rate factors, the lines north of Thebes received either the established local rate or their proportional rates: The proportional north of Thebes subdivided via East St. Louis when to Chicago and Chicago rate points by allowing the lines south 33 percent and north 65 percent. At this time I might mention that the percents that I have just named were determined on a mileage prorate from Cairo to Chicago via East St. Louis. To points in Illinois other than the Chicago district the proportion accruing to lines north of Thebes subdivided by allowing as of June 24, 1918 the lines from Thebes to East St. Louis 3 cents per 100 pounds and the lines north of Thebes 3 cents less than the local rate (Tr. 5395).

All of the divisions shown in this statement with the exception of those shown in connection with current rates on sheet 3 have been determined in the manner I have just described. In connection with the divisions as of June 24, 1918, it will be seen that the through rate from the Southwestern blanket to Chicago was 27½ cents per 100 pounds, and that rate was made up 16 cents to Thebes and 11½ [fol. 1039] cents north and is so divided via Thebes then East St. Louis gateway, that the lines to Thebes received 16

cents and for service Thebes to East St. Louis 35 per cent, or 4 cents per 100 pounds, and in connection with this latter statement I ask attention to the divisions shown in the column headed "East St. Louis" that shows that the proportion for lines south of East St. Louis was 19 cents and for lines north 8½ cents, whereas under the agreed basis the proper division would have been 20 cents for lines south and 7½ cents for lines north. The arbitrary of 19 cents that I have shown for lines south of East St. Louis was the local rate which we accepted as maximum earnings. 19 cents was our local rate (Tr. 5396).

To Peoria the through rate is shown as of June 24, 1918 to be 26½ cents, and was constructed to Thebes 16 cents south, north 10½ cents. Via Thebes and East St. Louis the total proportions for lines south was 19 cents and was made up by using the arbitrary of 16 cents from point of origin to Thebes and 3 cents for service Thebes to East St. Louis. The lines north received 7½ cents. To the Wisconsin points shown the through rate was made up on the combination via Thebes and the lines south in division of such rate received their local rates. The local north of Thebes divided to East St. Louis 3 cents and the balance accrued to the lines north of East St. Louis. That basis to the Wisconsin points is in effect today, authority for the division being Southwestern Lines Division Sheet No. 47-A, Western Trunk Lines Division Sheet No. 558-A, Illinois Freight Association Division Sheet No. 12-A. You can determine the June 24th rate to Marshfield and Rhinelander by adding together the 16 and 18 arbitraries south of Thebes and that will be 34 cents, opposite Marshfield it would also be 34 cents, opposite Rhinelander it would be 37.3 cents (Tr. 5396-5397).

[fol. 1040] The divisions shown in connection with the current rates were not determined in the same manner as were the divisions which have been shown in connection with the rates as of these dates and the June 24, 1918, March 1, 1920, August 26, 1920, April 13, 1922, July 1, 1922, August 1, 1922, or September 30, 1922. The division of the present rates are the result of an agreement which was made between the chief traffic officers of the Southwestern carriers and the chief traffic officers of the Illinois Freight Association Lines, the arrangement having become effective Octo-

ber 1, 1924, and was what might be termed a compromise agreement. The Southwestern carriers, not perhaps all of them, contended that the through rates determined on the basis of the combination via Thebes as of June 24, 1918 and modified by the general increase and reductions made since that time, to divide by allowing traffic south of Thebes 23 cents and north of Thebes to Chicago 16½ cents, out of which the lines Thebes to East St. Louis were entitled to 35 percent, or 5.8 cents and the lines north of Thebes 65 percent or 10.7 cents. Some of the Southwestern carriers in connection with their northern lines reached an agreement under which the difference in the proportion demanded by some of the Southwestern Lines and the arbitrary demanded by the northern lines was divided equally as between the lines south and north of East St. Louis (Tr. 5397-5398).

The contention of the northern lines was that the August 26, 1920 rate should divide by allowing north of East St. Louis 13½ cents while the Southwestern Lines contended that the allowance north of East St. Louis should be 12 cents. So that there was a difference of 1½ cents per 100 pounds, which was finally split by allowing south of East St. Louis 8/10 of 1 cent and lines north 7/10 of 1 cent, that is equivalent in connection with the present rate to an arbitrary of 11.4 for lines north of East St. Louis. To the other points in Illinois as shown on this exhibit the lines [fol. 1041] south of East St. Louis are allowed Chicago revenue. To the Wisconsin destinations shown the divisions as of today were determined in the same manner as were the divisions as of June 24, 1918, that is to say, they were arrived at by using as factors the local rate to and from Thebes subdividing the proportion north of Thebes via East St. Louis by allowing the Southwestern carriers 3 cents and the lines north 3 cents less than the local rate from Thebes (Tr. 5398-5399).

Referring to Exhibit A-184, there was an increase in the rate since June 24, 1918 of 12 cents to Chicago. On the basis of the lines south of East St. Louis restricting themselves to the local rates, it is true that the increase in divisions north of East St. Louis has been from 8½ cents to 11/4 cents. The percentage increase of the through rate has been substantially greater than the percentage increase

of the division north of East St. Louis. The increase to the lines south of this was based upon the June 24, 1918 rates and divisions as factors. This results from applying the agreed basis of divisions. I hav-n't figured the basis out on a rate prorate basis. The divisions have been fixed as between the lines as recently as October 24, 1924, but then the rates up to and beyond East St. Louis as of that date were not given any consideration. That would not have been at all proper because the through rate from the Southwest to those Illinois points was increased only 85 percent as was also the rates from the origin points to the river crossings, but from the river crossings to the Illinois destinations your advance was 40 percent. The through rate from the Southwest to these Illinois points was increased in the same percent as was the rate from the origin territory to Thebes and East St. Louis (Tr. 5399-5400).

The divisions shown in Exhibit A-184 apply from all Southwestern Territory groups and origins. The blanket [fol. 1042] territory mentioned in connection with Exhibit A-184 is that heretofore described by me. From the intermediate territory the northern lines accept the same earnings as they do from the blanket territory (Tr. 5401).

I have one more point that I would like to discuss but in connection with which I do not have an exhibit, and that is divisions on lumber from the Southwest to Milwaukee, Wisconsin. I think I have previously mentioned that our general basis for making rates from the Southwest to points east of the Mississippi and north of the Ohio Rivers is the June 1924 Thebes combination modified by General Order 28, Ex Parte 74 and ICC docket 13,293. There is a departure from that basis in connection with the rates to Milwaukee, Wisconsin and certain points intermediate with Milwaukee via both the East St. Louis and the Kansas City gateways. Our investigation develops that in May 1907 the rate from the blanket territory to Milwaukee was 29 cents per 100 pounds and to Chicago 26 cents per 100 pounds. One of the lines operating via Kansas City gave notice in connection with one of the Western Trunk Lines that they had concluded to make effective on lumber from the blanket territory in the Southwest to Milwaukee the same rate as to Chicago. The lines operating via Thebes and East St. Louis did not meet that competition until June

5, 1909, and at that time an agreement was reached to divide the rate by allowing the lines south of East St. Louis 19 cents per 100 pounds and the lines north of East St. Louis agreed to accept 7 cents per 100 pounds. In other words that while the Chicago rate had been extended to Milwaukee resulting in a reduction of 3 cents per 100 pounds, the Southwestern lines were only required to shrink their local rate ½ cent per 100 pounds. In other words we agreed to take on Milwaukee traffic 19 cents as compared with 19½ cents on Chicago traffic (Tr. 5401-2).

[fol. 1043] These divisions that I have just mentioned of 19 cents for lines south and 7 cents for lines north will be found in C. & A. Division Sheet No. 978-A effective June 5, 1909. Subsequently the Northern lines gave notice that they could not continue to handle the traffic from East St. Louis to Chicago on the basis of accepting 7 cents north of East St. Louis and one of the Southwestern Lines operating through the East St. Louis gateway agreed to increase that proportion from 7 cents to 8½ cents per 100 pounds. The Cotton Belt however concluded and did retire from participating in the rates to Milwaukee via East St. Louis because we did not consider we could afford to haul lumber traffic from Thebes to East St. Louis for 1½ cents per 100 pounds, so then the through rate while it was continued was made applicable via Thebes, Illinois only (Tr. 5402-3).

The present division sheet, Southwestern Lines Division Sheet No. 27-A, Illinois Freight Association Division Sheet No. 12-A, provides an allowance of 13 cents per 100 pounds for the lines north of East St. Louis, but provision is made in the sheet that that arbitrary will not apply on lumber traffic moving from points on or via St. L. S. W. Railway system lines. As nearly as I can figure the arbitrary of 13 cents was based on 17½ cents for lines south and 8½ cents for lines north of East St. Louis in connection with the 26 cent rate that was established June 5, 1909, except that applying 32.7 per cent to the existing rate of 29½ cents yields the lines north of East St. Louis 12.9 cents per 100 pounds. That basis of divisions was based upon using 16 cents as of June 24, 1918 from the Southwestern blanket territory to Thebes and a proportional rate of 11½ cents Thebes to Milwaukee. The arbitraries of 16 cents to Thebes and 11½ cents north are converted into percents which yielded south 58.2 or 23 cents in connection with the present

rate of 39½ cents and 16½ cents to the lines north, which [fol. 1044] we agreed to subdivide by allowing north of Chicago to Milwaukee 25 percent, subdividing the balance on the agreed Thebes-Chicago percent, via East St. Louis, that is Thebes to East St. Louis 35 percent, north 65 percent, and that is, or rather I should say the basis the Cotton Belt currently operates is in my opinion the proper basis of divisions to allow all lines north of East St. Louis. I don't know of any particular instance at this time where there is a difference between these proportions we allow and the proportions allowed by other Southwestern lines except as to lumber going to Milwaukee (Tr. 5403-5404).

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-185 (Tr. 5404).

(The statement referred to was thereupon received as Exhibit A-185.)

[fol. 1045] The Witness: This exhibit, Mr. Examiner, as shown is simply a reproduction of exhibit No. 5 that was filed in I. C. C. docket No. 5394, reported in 33 I. C. C. 33 and the only object of bringing it into play here was because in my exhibit- No. A-183 and No. A-184 I used certain mileages from the Southwestern Territory to St. Louis and East St. Louis, and I don't know of any other place except this I. C. C. Docket 5394 where we could secure a general average distance from the Southwestern blanket territory as a whole to both the St. Louis and East St. Louis gateways. There is the average weighted haul as of the date of the statement. That was in 1915 and my own guess is at the present time the average distance would be somewhat greater than shown on this exhibit because it is admitted I think that the center of production of our lumber is constantly moving south. The distance to St. Louis would be greater than as shown in my opinion. That would be true also as to East St. Louis (Tr. 5404-5405).

S. G. Reed was thereupon called as a witness and testified as follows:

Direct examination:

My residence is Houston, Texas. I am assistant traffic manager, Southern Pacific Lines in charge of rates, tariffs

and provisions, which position I have held for the past two years, prior to which time I was connected with the traffic department and rate department of the Southern Pacific Lines for about thirty years in various capacities, assistant general freight agent, and assistant to the traffic manager (Tr. 5405-5406).

Attorney Muckley here stated that the precipitation given by Witness Cecil included all rain and snow and any other air condensation, that he didn't know whether it included dew or frost but it included rain and snow (Tr. 5406).

[fol. 1046] This case involves divisions applying on traffic interchanged between the Western Trunk Lines and the Southwestern Lines via Kansas City, St. Louis, Cairo, Gale and Thebes. In addition to such elements as density of traffic, density of population per mile of road, cost of handling traffic, revenue per ton per mile, average haul, and the financial needs of the carriers, all of which must be considered in arriving at the proper basis for such divisions, there are two other elements, namely, the level of rates applying to and from gateways through which the traffic moves and the rates applying generally within the states comprising the two groups. The former has already been fully covered by witnesses Dana and Sickel, and it has been shown that the rates to and from the gateways from and to points in Western Trunk Line Territory are very much lower, mile for mile, than rates applying to and from the gateways from and to points in Southwestern Territory. I have made a comparison of the rates applying within each of the states involved (Tr. 5406-5407).

By way of preface and explanation it should be stated that it is impossible to make a comparison of these rates that will depict with absolute mathematical exactness the relation of one state with every other state and with one another and with groups for several reasons, first, the states vary in size; second, the scales vary in length; third, the blocks vary in length; fourth, the progression in rates vary; fifth, the percentage relation of the classes vary; sixth, two scales of rates prevail in one of the states, one applicable on interstate and one on intrastate traffic; seventh, in one state there are several scales applicable within the state, each applying in certain parts of the state. It is possible, however, to depict the rate levels prevailing in each state

by subjecting its scales to tests recognized as proper and applied by all rate tribunals and statisticians, and by ap- [fol. 1047] plying these tests, determine the percentage relation of each result thereby obtained, in one state or group of states, with similar results in another state or group of states. If the test is applied to a reasonably large number of classes of rates or average of rates and the percentage relation is similar, or comparable figures, is uniformly the same, then the results must be accepted as representative. This study has been made with proper consideration of all variations prevailing in the respective states and embraces a sufficient number of comparable rates of various kinds to be representative of the respective rate levels of the two territories. The study has not been confined to the class rates, but was made of the commodity rates as well. It deals with single line rates, and where there are both interstate and intrastate scales as in Wisconsin, both are used.

I now desire to offer Exhibit No. A-186 (Tr. 5407-5408).

(The statement thereafter described by the witness was received in evidence as Exhibit A-186.)

[fol. 1048] This exhibit consists of 18 pages and is a comparison of the class rates applicable within the various states involved in this proceeding. Pages 1 and 2 cover interstate class rates and show the average of each of the class rates for all distances in each scale. By referring to interstate class rates in Texas, I mean that they are applicable on interstate traffic as well as intrastate traffic (Tr. 5408).

Pages 1 and 2 of Exhibit A-186 also show average of the ten classes within the respective states for all distances within each state—within each scale and the average class rates as well as the average of the ten class rates within the group of states comprising of the Southwestern Lines involved in this case. Pages 3 and 4 of this exhibit are similar averages rates, and comparisons as to interstate traffic. Page 5 shows the average rate within the various states for stated distances, that is for blocks of 50 miles up to 500 miles, together with the average rate for the Southwestern Lines group as a whole. Page 6 is a similar showing to that made on page 5 for the Western Trunk Line

states and group. Pages 7 to 17 inclusive show the average of each rate and of all the class rates within the various states for stated distances used from which the average rates shown on pages 5 and 6 were obtained. Page 18 contains the tariff authority for the rates used in this exhibit. Because of the fact that a part of Missouri is in Southwestern Territory and part in Western Trunk Line Territory, I have shown on pages 1, 2, 3 and 4 of exhibit No. A1-186 the average of the Western Trunk Lines with the Southwestern Lines in four ways; one including south Missouri in the Southwestern Lines, one including north Missouri in the Western Trunk Lines, one omitting north Missouri from the Western Trunk Lines and one omitting [fol. 1049] south Missouri from the Southwestern Lines (Tr. 5408-5409).

On page 2 under the caption "relationship" will be noted certain percentage relationships on interstate traffic based on interstate scales of the Southwestern and the Western Trunk Lines; also, of Texas and Louisiana taken together with the Western Trunk Lines. On page 4 will be noted similar percentage relationships shown on intrastate scales. Inasmuch as the percentage relation of the rates for 50 mile blocks up to 500 miles, shown on pages 5 and 6 of exhibit No. A-186 have not been indicated in that exhibit, I have prepared another exhibit which I desire to offer as exhibit No. A-187 (Tr. 5409-5410).

(The statement referred to and thereafter further described by the witness was received in evidence as Exhibit A-187.)

[fol. 1050] Exhibit A-186 shows scales in which reductions are now proposed in Southwestern territory. I don't know whether they are reductions or advances, what they will be, but we think they are reductions. The scales shown on that page in Western Trunk Line Territory are the same scales that it is now proposed to advance in connection with the hearing in Ex Parte 87. The scale shown on page 6 as the Illinois scale is that prescribed by the Interstate Commerce Commission in 60 I. C. C. (Tr. 5410-5411).

Exhibit A-187 consists of one page which shows the percentage relation of the Southwestern Lines states to the

Western Trunk Lines states individually and by groups, based upon the average of the class rates in blocks by multiples of 50 miles up to 500 miles. As previously stated these are based upon the average of the rates in each of the states shown on pages 5 and 6 of Exhibit No. A-186. On the same exhibit I have shown the percentage relationship of the Southwestern states to the Western Trunk Lines states individually and by groups based upon the average of the first class rate for all distances in the blocks shown on pages 7 to 17 of exhibit No. A-186 (Tr. 5411).

The comments I will make will relate to Exhibit No. A-186. The comparisons on pages 1, 2, 3 and 4 of exhibit No. A-186 included all of the rates in each scale, regardless of length or gradation. Such a comparison by itself might not be considered as fully representative. I have, therefore, thought it proper to prepare a showing of the average of the ten class scales, single line, both state and interstate, for stated distances for each of the states involved in this case. This will be found on page 5 of exhibit No. A-186 for the Southwestern States and on page 6 for the Western Trunk Line States. Page 5 also shows the average rate of the Southwestern Lines as a whole for these stated distances and page 6 the average [fol. 1051] rate for the Western Trunk Lines for these stated distances. It will be observed that Michigan is not included in these block comparisons. The reason for this is that only the northern Peninsula is involved in this case and the maximum distance traffic could move in the northern Peninsula is approximately 175 miles east and west and 75 miles north and south, while I have used blocks up to 500 miles for comparison in other states. It will be observed that the same number of states is used in each territory in this comparison of rates for stated distances. It was thought unnecessary to show the average rate for stated distances beyond 500 miles as in only one case—Arkansas—does the scale extend beyond this distance, while in several other states it does not extend beyond 350 miles. Furthermore, this study is primarily to show the relationship and it is thought that this would be fully reflected by using when possible ten comparable blocks in each state (Tr. 5412-5413).

It will be observed that in the Southwestern states group, on page 5, there are no rates shown as to Oklahoma for 500 miles; this because as the scale reaches maximum at 450 miles. Also, as to Southern Missouri there are none shown for 400—450 or 500 miles. This for the reason that the scale does not extend beyond 350 miles. This makes a total rates omitted of 4 in the Southwestern Lines—2 500, 1 450, and 1 400. Likewise for the Western Trunk Lines there are no rates shown in 7 blocks, 2 in Wisconsin, 2 in Minnesota and 3 in northern Missouri, making a total of 7; 3 500; 3 450, and 1 400. While it was felt that these would offset one another one would not change the relations of the respective groups, or in fact, the average of the rates themselves, materially in order to demonstrate this, I have prepared another exhibit, which I now desire to offer as exhibit No. A-188, consisting of two pages (Tr. 5413).

(The statement described by the witness was thereupon received in evidence as Exhibit A-188.)

[fol. 1052] On Exhibit A-186 there are shown two scales in Missouri, one applicable in north Missouri and one in south Missouri. The line of the Missouri Pacific between St. Louis and Kansas City is the dividing line.

Mr. Roberts: The Commission recently prescribed a higher scale in southern Missouri.

Exam. Disque: Illinois has higher rates than northern Missouri; take on exhibit No. A-187, what does the first half of it, take Oklahoma versus Wisconsin now?

The Witness: It means that the average of rates taken by blocks of 50 up to 500 miles are as many as are shown in that comparison compared with the rates for corresponding distances in Wisconsin and taking the average of those rates that the Oklahoma rates are 178 percent of the intrastate scale applicable in Wisconsin and 153 percent of the interstate scale. That is classes one, two and three. The lower half is confined to the first class. The basic figures from which these figures were obtained are shown on pages 5 and 6 of Exhibit A-186 (Tr. 5413-5414).

This shows on page 1 the percentage relationship of each of the Southwestern States with each of the Western Trunk Line States for each of the 50 mile blocks up to 350 miles.

It also shows on page 2 the percentage relationship of the Southwestern States group to the Western Trunk Lines states group for each of these blocks up to 350 miles as to both interstate and intrastate traffic. I have prepared another exhibit showing the rate relationships in still another way in the respective states and territories which I now desire to offer as exhibit No. A-189 consisting of 14 pages (Tr. 5415).

(The statement referred to and thereafter described by the witness was thereupon received in evidenc as Exhibit A-189.)

[fol. 1053] Wisconsin is the only state in which there is a different scale interstate and intrastate.

Exam. Disque: You mean that is a chance for the Western Trunk Lines to get some more money, you mean that the Wisconsin rates are lower intrastate than interstate?

Mr. Muckley: Much lower (Tr. 5415-5416).

The Witness, continuing: Because of the varying gradations as to mileage in the scales in the various states in Western Trunk Line and Southwestern Line Territories and in order to avoid criticism that we were using more rates in one territory to arrive at average rate for that territory than in another, I have in this exhibit used rates up to 350 miles only and have used the same number of blocks, thereby using the same number of rates in each state in order to obtain the averages. In other words, I have used 410 rates in each state in obtaining the average rate for that state. The first page of this exhibit shows the percentage relation of the averages of 410 rates for similar distances and for the same number of classes in various ways. Pages 2 and 2-A contain the averages of the class rates upon which these percentages on page 1 are based. Pages 3 to 13 contain the scales themselves for each distance and class used, and at the bottom of each page appears the average of the rates thereon. In every case 410 rates have been used. The exhibit also shows the average and shows rates for the same distance in each case for the same number of rates. Page 14 contains the tariff authorities (Tr. 5416).

Having in mind the opinion held by some that the class rates in the Southwest do not move the traffic as freely as

In other sections it is surprising and significant to find so many commodities,—commodity rates in the Western Trunk Lines, notwithstanding the much lower level of their class rates as compared with the Southwest. It may be true that there may be more commodity scales in the Southwest than in the Western Trunk Line Territory, but [fol. 1054] there are in the Western Trunk Line specific commodity rates as numerous as in the Southwest on many important and heavy moving commodities, which are applicable in widely separated sections. I now desire to submit an exhibit reflecting a study of the representative current commodity rate levels within the respective states involved in this proceeding, exhibit No. A-190, which consists of 37 pages (Tr. 5416-5417).

(The statement referred to and thereafter described by the witness was received in evidence as Exhibit A-190.)

[fol. 1055] As there are not in all of the Southwestern or Western Trunk Lines states scales applicable on specific commodities within the states, it was not possible to make in the same way comparison between the respective commodity levels in the two territories as has been made with respect to the class rates and which is reflected in the previous exhibits. Therefore, in order to make a study of the situation that would be comprehensive and would reflect a true state of facts, it was necessary to make a very complete study of the specific commodity rates applicable within each state and based thereon, to construct a scale which would represent the level of rates under which such commodities move in each state (Tr. 5417-5418).

The next step was to select commodities common to all the states involved in this case, not only those that move freely and in substantial volume, but in all parts of each state. Furthermore, to be fairly representative these commodities should be such as move under similar conditions. That is, to avoid selecting a commodity such as lumber which, while it moves freely and in substantial volume in all parts of each state, is not produced in each state. For instance in Texas, Louisiana and Arkansas, it is produced and generally moves direct from mills to retailer,—and there is very little reshipment through jobbers. The same is true as to Wisconsin and Michigan, but in all of the

other states the movement is from other states and there is greater distribution by wholesalers. The next step was to select three important but widely separated points in each state as points of origin and locate points of destination in relation thereto approximating each of the 50 mile blocks for the maximum distance such commodity could move within each state. Whenever there was a scale applicable within the state on such commodity, and there was no lower specific commodity rate, scale or specific, then the class rate applicable on the commodity for the particular [fol. 1056] distance was used (Tr. 5418).

The same plan was followed uniformly in both of the Southwestern Lines states and in Western Trunk Lines states. For example, turning to the Louisiana exhibit, page 20, it will be noted that the three points of origin selected are New Orleans in the southeast corner of the state, Shreveport in the northwest corner, and Lake Charles in the southwest corner. Each of these points is an important distributing center. *Each of these points is an important distributing center.* There were selected points of destination, the same distance approximately from each of the points of origin for approximately 50, 100, 150, 200, 250, 300 and 350 miles. The same plan was followed in the Western Trunk Lines group. We have selected for instance, in Illinois on page 14 as points of origin, East St. Louis, Freeport and Cairo, and destinations for each block approximating 50 miles up to 250 miles. Having obtained the rates applicable from each point of origin to each destination, for each distance approximating the 50 mile blocks, an average for each of these rates for each of these blocks was obtained and used as representative of the rate prevailing within each state for that particular distance. While in some cases the same rates were applicable on these commodities moving between the points selected and also generally the same on both interstate and intrastate traffic because of some differences we made a separate study and comparison of the interstate scales and of the intrastate scales (Tr. 5419).

The result of the study and comparison are referred to in our exhibit No. A-190, which has been previously offered in evidence, and I will now explain this exhibit in more de-

tail. The first page is a statement of the average rates on the 11 selected commodities common to Western Trunk Lines and to Southwestern Lines territories and applicable [fol. 1057] to intrastate traffic and the percentage relationship of the average rates on these commodities in Western Trunk Line Territory with corresponding average rates on the same commodities in Southwestern Lines Territory. Page 2 is a similar statement with respect to interstate traffic. Page- 3 and 4 show the average of these commodities in the respective Western Trunk Lines and Southwestern Lines groups, as well as the average on all of these commodities within those states for state and interstate application. Pages 5 and 6 are recapitulations of the average rates on these commodities for intrastate and interstate application for stated distances, as well as the average of such rates for these distances by groups of these states. The balance of the exhibit, pages 7 to 35, inclusive, contain a statement showing the average of rates on these commodities for stated distances within the respective states shown, applicable on state and interstate traffic, and are the details upon which figures shown in the preceeding pages were based (Tr. 5419-5420).

Pages 36 and 37 set out the tariff references used in this exhibit, and the reference marks on these pages appear on pages 11 to 21, inclusive, and 26 to 35, inclusive, in parentheses, opposite the points of origin used, except when all of the rates are in one tariff this reference mark appears opposite the state. As previously stated, the percentage relationships of the average of the rates on these 11 selected commodities on intrastate and interstate traffic, separately in the Western Trunk Lines and in the Southwestern Lines Territories, are shown on pages 1 and 2 of exhibit No. A-190, and similar detail with respect to the relationships of the class rates is shown on pages 2 and 4, Exhibit No. A-186. The average rate levels on classes and commodities within the various states are further depicted in the form of graphs, which we now offer in evidence (Tr. 5420-5421).

[fol. 1058] In Exhibit A-190 the relationship is shown using rates in 50 mile blocks up to 250 miles and also for all the distances. The traffic could not move beyond 250 miles in some states so the 250 mile figures show compari-

son of rates for comparable distances. In getting up the data for this exhibit we used the scale, if it was a scale. If there was a specific rate lower than the scale we used the specific rate. If there was neither a scale or a commodity rate, we used the class rate and that applied uniformly in both Southwestern and Western Trunk Line states (Tr. 5421-5422).

In picking these commodities and points of origin I gave thought as to whether or not traffic moved on those rates. I have no figures as to the amount of soft coal moving from Milwaukee to any place. I presume that soft coal moves from Milwaukee into Wisconsin.

Exam. Disque: Oh, yes, the docks are full of it.
The Witness: I adopt the Examiner's statement.

There were rates on soft coal from other points than St. Paul. It just so happens that we took St. Paul as the point from which the distribution of the commodities would be probably larger and more representative levels under which the greatest portion of the traffic moved in the state (Tr. 5422).

We picked the largest shipping points and the commodities which in our opinion moved freely within the various states and which are common to both sections of the state. I don't know why these larger shipping points which we chose would have the special commodities in there if they did not ship them. We would have a right to assume that the rates moved the traffic (Tr. 5423).

Probably the commodities don't move because the rates are too high. It is the uniform situation that if the commodities don't move the rates are naturally higher than if [fol. 1059] there is a movement. That would make the showing to the advantage of the Western Trunk Lines. As a rule paper rates are higher than actual moving rates.

The lines in these graphs depict the average rate levels on classes and commodities within the states shown, for state and interstate application, and are based upon and conform with the rate levels shown in the preceeding exhibits. The first of these graphs, Exhibit No. A-191 depicts the average rate levels within the various states shown. This graph as well as the two other graphs are explained fully by the legend appearing in the lower right hand corner of each graph (Tr. 5424).

(The graph described by the witness was thereupon received in evidence as Exhibit A-191.)

The second graph exhibit No. A-192 depicts the average of the rate levels by groups of states, that is, Southwestern Lines versus Western Trunk Lines. This also shows the percentage relation of the average of the rate levels in these two groups of states (Tr. 5424-5425).

(The graph described by the witness was thereupon received in evidence as Exhibit A-192.)

The third graph, Exhibit No. A-193 depicts the average rate levels for stated distances within the groups of states forming the Western Trunk Lines and the Southwestern Lines territories applicable to state and interstate traffic separately. It also shows the percentage of the average of the rates in the Western Trunk Lines as a whole as to classes and commodities separately, state and interstate (Tr. 5425).

(The graph described by the witness was thereupon received in evidence as Exhibit A-193.)

[fol. 1060] The percentage relation of the lines in this graph as representing the different classes of rates used is indicated at the bottom of the graph and it shows that the percentage, Southwestern Lines to Western Trunk Lines in the case of Interstate class levels, ranges from 156 per cent to 191 percent, while on the intrastate commodity rate levels, the range in percentage is 128 percent to 171 percent. The range is shown in blocks of 50 miles (Tr. 5425).

I do not wish to burden the record with repetition of facts shown in exhibits Nos. A-191, A-192 and A-193 and will merely call attention to the fact that the percentages shown in graph exhibit No. A-192 are lower as to the class rates than those of: First, the average of the rates of all 50 mile blocks up to 500 miles shown in exhibit No. A-197; second, the average of the first class rate for all distances up to 350 miles, shown in exhibit No. A-187; third, the average of each 50 mile block up to 350 miles, with the exception of the first block of 50 miles, as shown on page 1 of exhibit No. A-188; fourth, the average of all rates in each state up to 350 miles, as shown in exhibit No. A-189. I mention these facts to show that the figures contained in

the graph are very conservative. It would be fair to assume from these facts that the percentage relation of the rate levels in the Southwestern states is actually higher than we have shown in our graphs, exhibits Nos. A-191, A-192 and A-193; and most assuredly the above facts support the latter figures as a minimum. We have previously shown that the percentage relations on page 1 of exhibit No. A-186 are lower than the percentage relations obtained by other tests as to the Western Trunk Lines and Southwestern Lines as a whole, having in mind the evidence in [fol. 1061] this record as to the very large percentage of the traffic involved in this case which has origin or destination in Iowa and Illinois, or passage through Illinois and Iowa (Tr. 5426).

I made a separate comparison of the rate levels in these two states with each of the Southwestern states and with groups of the Southwestern states and also with the Southwestern states as a whole. These are reflected in exhibit No. A-194, which I now desire to present, and call attention to the fact that the percentage relation is greater as to Illinois and Iowa taken together compared with the Southwestern states and with each group of Southwestern states and with the Southwestern states as a whole, than is relationship with the Western Trunk Lines as a whole with each of these states or groups of states. In this comparison the rate levels used are arrived at by taking all of the rates in every scale in each state and I have shown previously that the percentage relation is uniformly lower than in this test than by the use of any other test (Tr. 5427).

(The statement described by the witness was thereupon received in evidence as Exhibit A-194.)

[fol. 1062] The next exhibit is a comparison of class rate scales fixed by the Commission in Western Trunk Line Territory and in the Southwest.

The statement described by the witness was thereupon offered in evidence as Exhibit A-195 (Tr. 5427).

(The statement referred to was thereupon received in [fol. 1063] evidence as Exhibit A-195.)

The Witness: The basic scale used in the Southwest is the Memphis-Southwestern Scale, 55 ICC 515, and applies

between points in Southern Missouri, Arkansas and Louisiana west of the Mississippi River. In the Fargo Case 98 ICC 691, decided June 1925 the Commission fixed a scale of class rates to apply from Twin Cities and Duluth, Minnesota and related points in Minnesota and Wisconsin taking the same rates, to Fargo, Valley City and Jamestown, North Dakota and Moorehead, Minnesota; and from Fargo, Moorehead, St. Paul, Minneapolis, Duluth, and certain other Minnesota points to points in Minnesota 150 miles and less from Fargo. That scale, as noted in this exhibit is shown in line "A" for 50 mile blocks, from 50 miles to 500 miles, inclusive. In the Watertown Case, 101 ICC 441, decided in July 1925, the Commission fixed a scale of class rates from Watertown, South Dakota to points in Minnesota. In that case the Commission found that the class rates from Sioux Falls, Sioux City and certain Minnesota points to other Minnesota points were less than reasonable maximum rates and that for the future reasonable maximum rates from and to said points would be the Fargo scale, previously mentioned, less 12 percent for hauls on and east of the line of the C. St. P. M. & O. from Sioux City through Worthington and Mankato. In other words, the Commission said that the territory involved in that case east of the Omaha Railroad should take rates 12 percent less than the Fargo scale. This scale is shown opposite Line "B" in this exhibit (Tr. 5427-5428).

The scale shown opposite line "C" in this exhibit represents the present rate levels in Illinois and was practically fixed by the Commission in its report in 60 ICC 92, decided in 1921. We therefore have three class scales in Western Trunk Line Territory which have the approval of the Com- [fol. 1064] mission, and one class scale in Southwestern Territory applying in three states. The third page of this exhibit shows the average rates under these scales for each 50 mile block and for all classes. The last page also shows the percentage of the Memphis scale to each of the three scales fixed by the Commission in Western Trunk Line Territory. The Memphis-Southwestern scale as shown on this exhibit is 137 percent of the Fargo Scale. The Memphis scale is 155 percent of a scale 12 percent under the Fargo scale, which the Commission found proper in the Watertown case to apply in the territory immediately east of the

Omaha Railroad. The most important comparison in this exhibit is between the Memphis-Southwestern scale and the Illinois scale, because as previously shown most of the traffic interchanged involved in this proceeding moves from, to or through the state of Illinois. It will be noted that the Memphis scale is 196 percent of the Illinois scale. The last block of figures on page 3 of this exhibit also shows relation of the Memphis scale to each of the three Western Trunk Line scales for each class. For example, the average of the first class rates in 50 mile blocks in the Memphis scale is 172 percent of the average of the first class rates for 50 mile blocks under the Illinois scales (Tr. 5428-5429).

If we take the first five classes we find that the Memphis scale ranges from 122 percent to 163 percent of the Fargo scale. The first five classes of the Memphis scale range from 137 percent to 185 percent of the Watertown scale, while comparison of the first five classes of the Memphis scale and the Illinois scales show that the percentages range from 172 percent for first and second classes, to 236 percent for the fifth class. Questions by Mr. Towner of previous witnesses as well as myself has indicated that it will probably be the Western Trunk Lines contention that class rates in the Western Trunk Line Territory are depressed. A com-
[fol. 1065] parison of the percentage relations obtained by using the Commission made rates with those obtained by using the various class rate levels within the states as shown by previous exhibits indicates at least as far as Illinois is concerned that the comparisons made on the previous exhibits are fair (Tr. 5429-30).

Making some comparisons of the percentages of the first five classes as shown by Exhibit A-189:

The average of the first five classes of the Southwestern States including southern Missouri is 63.77, excluding south Missouri it is 63.50. The average of Western Trunk Line first five classes, excluding Wisconsin interstate is 37.52, excluding Wisconsin state it is 38.49. When I exclude Wisconsin state rates I include the interstate. The percentage relationship for the Southwestern Lines as a whole including Missouri with the average of all of the Western Trunk Lines, using the Wisconsin state scale, is 177 percent. That is the first five classes only as shown on Exhibit A-189 (Tr. 5430-5431).

The average, excluding south Missouri from the Southwestern Lines and with the Western Trunk Lines intrastate scale is 176.3 percent. Now the percentage of the Southwestern states including South Missouri with the average of the Western Trunk Lines states based on the interstate scale is 171.3 percent, while excluding south Missouri from the Southwestern Lines and comparing that with the Western Trunk Lines, and using the interstate scale the percentage is 170.6 percent. My last percentages all relate to the relation of the first five classes only.

I haven't the exact date that Docket 9,702 was decided. December 5, 1919. The Commission hasn't prescribed any scales in Southwestern territory since 1919, except in Mis- [fol. 1066] souri where they have recently prescribed one. But that was not used in these exhibits and from a cursory examination of it it is higher than the scale that was used in this comparison. I am not familiar with any scale prescribed by the Commission recently on cotton seed products in Southwestern and Western Trunk Line territory. I know they have prescribed such a scale. I am not sufficiently familiar with it to answer any questions about it.

Mr. Larimore: The cotton seed scale applies all over the United States.

Mr. Towner: So much the better. Is that right, Mr. Reed?

A. Not all over the United States.

The Witness, continuing: It applies quite a distance. I didn't look up either that scale or the scale on live poultry referred to (Tr. 5431-5432).

Exam. Disque: Now, to determine the ultimate results of these two Western Trunk Lines different levels of rates, you can refer to your operating ratios and your return on your investments to see whether or not this whole level in Western Trunk Line Territory yields 3, 4, or 5 percent on your investments, or whether this high level in the Southwest earns that.

Mr. Towner: I suppose Mr. Reed would reject with scorn the inference that possibly the local rates in the Southwest were too high, so I didn't ask him that.

Mr. Roberts: The Examiner remembers the difference in density between the two territories (Tr. 5433).

W. J. SAUER was thereupon called as a witness and testified as follows:

Direct examination:

I am auditor of freight accounts for the Southern Pacific Lines in Texas.

(Attorney Towner here conceded the witness's qualifications.)

I have analyzed certain exhibits that have been put in this record (Tr. 5433-5434).

[fol. 1067] I have had Western Trunk Line Exhibit No. A-60 for June 1924 analyzed and have prepared a statement showing the relation of the revenue of the Southwestern Lines under present divisions to the revenue which would accrue to them under a mileage pro-rate, and offer same as exhibit No. A-196 (Tr. 5434).

(The statement described by the witness was thereupon received in evidence as Exhibit A-196.)

I have had another statement prepared based on Southwestern Lines Exhibits No. A-116 to A-120, inclusive, for October 1924, showing the relation of the revenue of the Southwestern Lines under present divisions to the revenue which would accrue to them under a mileage pro-rate, which I offer as Exhibit No. A-197.

The statement described by the witness was thereupon offered in evidence as Exhibit A-197 (Tr. 5434).

(The statement referred to was thereupon received in evidence as Exhibit A-197.)

The Witness: Exhibit No. A-197. Now, my next exhibit is a consolidated statement based upon Western Trunk Lines Exhibit No. A-60 and Southwestern Lines Exhibit No. A-116 to A-120, inclusive, showing for the months of June and October 1924 the relation of the revenue of the Southwestern Lines under present divisions to the revenue which would accrue to them under a mileage pro-rate, which is offered as Exhibit No. A-198 (Tr. 5434-5).

(The statement referred to was thereupon received in evidence as Exhibit A-198.)

[fol. 1068] The basis used in compiling Western Trunk Lines exhibit No. A-160 and Southwestern Lines Exhibits Nos. A-116 to A-120 inclusive, on special commodities, such as live stock and oil, was not identical, that is the western trunk lines apparently made a complete separation of these commodities, while the Southwestern Lines only separated these commodities when specific divisions, no divisions or disputed divisions applied. When specific divisions, no divisions or disputed divisions were not the basis for settlement but merchandise percentages were used, these commodities would appear in southwestern Lines exhibit under "other carloads". The exhibits that I have prepared show tons one mile for the Western Trunk Lines, Southwestern Lines, the percentage of the total tons one mile of the Western Trunk Lines and the Southwestern Lines, the revenue accruing to the Western Trunk Lines and the Southwestern Lines, the percentage of the revenue that the Western Trunk Lines received and the percentage of the revenue that the Southwestern Lines received by dividing the percentage of the tons one mile of the Southwestern Lines into the percentage of revenue of the Southwestern Lines (Tr. 5435-436).

I have ascertained and shown the relation of the revenue of the Southwestern Lines under present divisions to the revenue which would accrue to them under a mileage prorate. The statements are prepared by Southwestern Lines states, also gateways, between the Southwestern Lines and the Western Trunk Lines. Western Trunk Lines exhibit No. A-60 show the separation between northeastern Texas and the remainder of Texas common point territory. This separation was not made in Southwestern Lines exhibit No. A-116 to A-120. However, Texas common point terri-
[fol. 1069] tory shown in Western Trunk Lines exhibit No. A-60 is apparently the same as shown in Southwestern Lines exhibits. Nos. A-116 to A-120, inclusive, covering Texas common point territory. The ratio of 112 on consolidated exhibit No. A-198 was arrived at in this manner: The 54.26 percent shown opposite Southwestern Lines or tons per mile is their percentage of the total tons per mile. That represents the service. The 61 percent opposite the Southwestern Lines percentage of the revenue accruing to the Southwestern Lines and the Western Trunk Lines. By

dividing the 54.26 into the 61 percent you arrive at 112.4 percent, that means that the Southwestern Lines receive 12 percent of a straight mileage pro-rate on all traffic. That is for performing 54.26 percent of the service via all gateways that receive 26 percent of the revenue (Tr. 5436-7).

B. H. STANAGE was thereupon called as a witness and testified as follows:

Direct examination:

I am Assistant Freight Traffic Manager of the St. Louis, San Francisco Railway, headquarters, St. Louis, Missouri. I have been connected with the Frisco 31 years this coming March and in the Traffic Department since 1904.

(Attorney Towner here conceded the witness's qualifications.) (Tr. 5437.)

A volume of statements was thereupon offered in evidence as Exhibit A-199 (Tr. 5438).

(The volume of statements referred to was thereupon received in evidence as Exhibit A-199, and the statements were thereafter described by the witness.)

[fol. 1070] The Witness: I desire to offer in evidence exhibit No. A-199, consisting of 209 pages, except that pages 18 to 26 are skipped and so indicated in the body of the exhibit. In other words there are no pages numbered 18 to 26. Page 1 is a map of the Frisco. The Frisco System Lines serve the following states, and Southwestern territories: Missouri, Arkansas, Oklahoma and Texas. Mileage in each state as of December 31, 1924 as follows: Missouri 1,862.24 miles; Arkansas 603.43 miles; Oklahoma 1,506.32 miles; Texas, including the Q. A. & P. Railway 496.96 miles. The production of traffic in this territory is confined principally to the products of the farm, orchard and mines. There are a few manufacturing establishments other than oil refineries outside of those located in St. Louis, Kansas City, Missouri and Memphis, Tennessee. The line from St. Louis through Springfield to the Missouri-Kansas border in southwest Missouri, 329 miles, traverses the Ozark mountains. The products are principally fruit, ores, concen-

trates, chats, lead products, live stock and dairy products. On the line west of Joplin, Missouri to Ellsworth, Kansas, 288 miles, the products are wheat, hay, live stock and oil from the refineries at Joplin, Missouri, Wichita and Neodesha, Kansas, which moves principally to short hauls—short haul points (Tr. 5438-5439).

The production on the line from Beaumont Junction, Kansas to Vernon, Texas, 331 miles, consists of grain and mill products, alfalfa oil, and cement plaster mill is located at Southard, Oklahoma. Cotton, cotton seed and its products are produced to a limited extent in the territory, from Hobart, Oklahoma and south. On the line from Monet, Missouri through Afton, Tulsa and Oklahoma City to McBain, Texas, 532 miles, the bulk of the tonnage consists of petroleum oil and its products, hay, cotton, cotton seed and products and live stock. A cement plaster mill is [fol. 1071] located at Eldorado, Oklahoma and Acme, Texas. Packing plants at Oklahoma City. Sapulpa, Oklahoma to Denison, Texas, 198 miles, the production consists of oil, live stock and smelter. A cement plant is located at Ada, Oklahoma. There is a limited production of cotton, cotton seed and products, Denison, Texas to Menard, Texas, 325 miles, the production is principally grain, cotton, oil and live stock. Tulsa, Oklahoma to Avard, Oklahoma, 178 miles, the production is principally oil, sand and crushed rock and wheat. Monett, Missouri to Paris, Texas, 302 miles, the Ozark Mountains are traversed. This section produces fruit, potatoes, dairy products, canned goods, some hardwood and a light tonnage of cotton, cotton seed and products. There is a very small quantity of tin in the territory south of Wister, Oklahoma (Tr. 5439).

The branch from Fayetteville, Arkansas to Okmulgee, Oklahoma, 143 miles produces oil, fruit, potatoes, cotton and cotton seed. From Ardmore, Oklahoma to Hope, 222 miles, the tonnage consists of oil, lumber, live stock, hay, forests products, the latter principally on the T. O. & E., and the DeQueen & Eastern with whom the Frisco connects at Valiant, Oklahoma. There is a limited production of cotton and cotton seed products. From Springfield, Missouri north via Clinton, Kansas City, 191 miles the production is light, consisting principally of lumber, building stone, live stock and grain. From Kansas City, Missouri via Frisco, Kansas to Nichols, Missouri, 192 miles, the prin-

cipal tonnage is coal in the Pittsburg, Kansas District, hay products, and also a small quantity of wheat. The line from Springfield, Missouri to Memphis, 286 miles, traverses the Ozark Mountains, producing fruits, dairy products, canned goods and various forest products. In northeastern Arkansas section there is a limited production of forest products, corn, cotton, cotton seed and products. In the territory south of St. Louis through Cape Girardeau to Memphis, Tennessee, 305 miles, the principal tonnage is forest prod-
[fol. 1072] ucts, grain, cotton, cotton seed and products, potatoes, melons and cantaloupes. A cement mill is located at Cape Girardeau. There are also a few lime plants north of Cape Girardeau (Tr. 5440).

There is a very limited production of traffic on the numerous branch lines in southeastern Missouri and northeastern Arkansas. The production is exceptionally light on the Missouri Lines from Nash, Missouri to Willow Springs, Missouri, 160 miles, and from Mingo, Missouri to Walnut Ridge, 80 miles, consisting almost entirely of ties and lumber. The southbound traffic handled by the Frisco is principally that of the higher grade, largely manufactured goods and merchandise. The northbound traffic consists of raw or rough products, or materials such as brick, other clay products, cement, lumber, crushed stone, sand and gravel, cotton, cotton seed, cotton seed products, coal, grain, grain products, hay, live stock, fresh meat, packing house products, petroleum oils, sewer pipe, chats, zinc, ore, and concentrates, all of which moves on commodity rates. The north bound tonnage is from four to five times in excess of the southbound. The revenues accruing to the Frisco in connection with the handling of inter-territorial traffic between points in the Western Trunk Lines Territory on the one hand and points in the Southwestern Territory on the other is substantial. In my opinion it constitutes 10 per cent of our total freight revenues. Using as a basis the figures submitted by the Wabash, C. & A., C. & E. I., C. G. W., M. & St. L., C., St. P. M. & O., C., M. & St. P., C. & N. W., and the Illinois Central, covering traffic interchanged for the month of June 1924, the reduction or loss in Frisco revenue under the application of a mileage pro-rate basis would approximate $500,000.00 annually. And this would
[fol. 1073] mean a corresponding gain to the Western Trunk Line from the Frisco alone (Tr. 5440-5441).

No figures are available showing the losses for traffic interchanged with the Santa Fe, Rock Island and Burlington. My estimate is it will be about $100,000.00. Grand total, $600,000.00 loss to the Frisco. The Frisco has no way to recoup its revenue if the Commission requires the application of a mileage pro-rate which will result in a loss to the Frisco on almost *on* every shipment. The present divisions are not the result of arbitrary carrier action. They are the result of the processes of natural growth. A great many influences brought about the present bases. It is not proper to divide the existing joint rates on mileage pro-rates for a great many reasons, principal among which are the fact that the rates in the Southwest are on a substantially higher level than those in the Western Trunk Line territory. Divisions are generally based on the respective rate levels in the two territories. The divisions of joint rates accruing to the Southwestern Railroads have always been on a substantially higher level mile for mile than the divisions for the Western Trunk Lines. Traffic and transportation conditions in both districts are substantially dissimilar. The through rates are not based on mileage. The mileage pro-rate basis has never been observed in basing any of these divisions. The through rates were constructed taking into consideration the proportions to be allowed the Southwestern Lines. Especially is this true of the north bound traffic as I will cover in detail shortly (Tr. 5442).

There is no uniformity in the rate adjustments applicable to Southwestern Territory as a whole or as applied to any given commodity. Some of the rates are based on the application of the mileage scale from St. Louis, the recognized committee gateway, to which is added a differential adjust-[fol. 1074] ment to construct joint rates from defined territories such as Chicago, Milwaukee, Peoria, and so forth. Other joint rates have been based upon arbitrary proportions required by each set of carriers beyond the interchange point, such as Kansas City or St. Louis. Other rates are based on the local or proportional rates to the gateways, to which figures have been added, arbitrary proportions, between the interchange points, such as East St. Louis, Thebes. Rates on lumber for instance, were based on the June 24, 1918 combination on Thebes, increased and reduced as the result of the various advances and reductions ordered in by the Commission as more fully explained

by Mr. Lehmann. Other rates have been established to permit the products of the farm, orchard or mines produced in the Southwest to move to the northern markets or Western Trunk Line Territory in competition with the same character of traffic from other sections, or produced locally in Western Trunk Line Territory. In such instances the Southwestern carriers have allowed their connections the proportions they required beyond the gateways. Their earnings in some instances being based on revenue received on similar traffic from competitive producing points, the Southwestern carriers accepting the remainder (Tr. 5443).

I will not take up the question of our interchanges with various connections. On page 2 is shown the number of cars interchanged by the Frisco with its various connections at Kansas City for the month of July 1925, which is representative. I refer to the Frisco's Western Trunk Line connections. The total cars delivered by the Frisco to the Southern carriers listed on page 2 was 4,600 cars. The total cars received by the Frisco from these seven connections totals 1,098 cars, or a ratio of 4.19 of cars delivered to Frisco connections at Kansas City versus cars received. On page 3 I have shown the interchange between the Frisco and the various carriers listed on that page for the years 1922 to 1924, inclusive; also for the 10 months of 1925. Our [fol. 1075] interchange points with the C. & A. is at Kansas City and East St. Louis-St. Louis; with the C. G. W. at Kansas City, only; C., M. & St. P. at Kansas City only; C. & E. I. at Chaffee-Thebes-St. Louis-East St. Louis; Illinois Central we have a great many points of interchange, St. Louis-East St. Louis, Memphis, Tennessee, Holly Springs, Mississippi, Aberdeen, Mississippi, Birmingham, Alabama. There is also an interchange of coal in connection with the C. & E. I. through Chaffee. Our point of interchange with the Wabash is Kansas City, also St. Louis-East St. Louis (Tr. 5444).

Take the C., M. & St. P. for example, the Frisco delivered to that carrier at Kansas City for the 10 months of 1925, 223,167 tons of carload freight and received from the C., M. & St. P. in the same period 34,278 tons of carload freight. On page 4 is shown a statement of the carloads interchanged between the Frisco and the C. G. W. at the point of interchange, Kansas City, for the month of October 1925, indicating the character of the northbound and

southbound traffic. The total cars delivered was 191, the number received was 45. On page 5 is shown the tonnage interchanged between the Frisco and the Santa Fe, Burlington and Rock Island. The tonnage figures via the Santa Fe include interchange at a great many points throughout the Southwest. With the Burlington our interchange connection is at Kansas City and St. Louis. With the Rock Island we have a great many interchange points. The figures for both the Rock Island and the Santa Fe cover our total interchange at all junctions.

On pages 6 to 17 the population is shown of the cities and towns along the Frisco in Missouri together with the freight traffic density on the main lines and branch lines located in Missouri. This data was introduced in connection with I. & S. 2247, 100 I. C. C. 274, I want to call attention particularly to the light population on our Missouri Line, also the light density on the various branch lines (Tr. 5444-5445).

[fol. 1076] The total mileage shown on page 17 of 1,754.1 miles has been increased subsequent to the date of this hearing in I. & S. 2247 by the acquisition by the Frisco of the K. C. C. & S. Railroad, which added to that total mileage 108.14 miles. The road I just mentioned is now a branch of the Frisco and that same amount 108.14 miles should be added to the item 890.2 miles shown as the total and average of branch lines. That results in the following total of branch lines in Missouri on the Frisco, 998.14 miles, leaving the main line mileage 864.10. The proportion of branch line mileage to main line mileage is 53.6 per cent.

I will next deal with the question of rates—rate levels Western Trunk Lines versus points in Southwest, which is supplementary to the information given by Mr. Reed and deals with some specific points. For example, on page 28, 4th line you will note that for a distance of 343 miles Western Trunk Line Territory, Des Moines, Iowa, to East St. Louis, the first four class rates are as follows: 87 cents, 67 cents, 53 cents and 39.5 cents, or a total for the 10 classes of 398. For a similar distance in Southwestern Territory namely St. Louis to Springdale, Arkansas, the seventh item on the page, the distance is 343.6 miles, the first four classes being as follows: 160, 139, 111.5, 96, a total for the 10 classes of 871.5 or 219 per cent higher in the Southwest than in the Western Trunk Line Territory (Tr. 5445-5446).

Another example, the class rates from Madison, Wisconsin to East St. Louis, the seventeenth item, distance 363 miles, for the first four classes 88.5, 75, 59.5, 44.5 or a total for the 10 classes of 425.5. Comparing this item with the twenty-fifth item on the page, rates to Kansas City to Atoka, Oklahoma, distance 360 miles, first four classes, 160, 140, 128, 115.5 or a total of 970, the Southwestern rates in that block are 278 per cent of the rates in Western Trunk [fol. 1077] Line Territory. Another one I might call attention to is Freeport, Illinois to Kansas City as compared with Kansas City to Durant, Oklahoma, the distance of the four, 397 and 391 respectively which shows that the rates in Southwestern Territory for that block are 264.9 per cent higher than in the Western Trunk Line Territory. On page 28 similar comparisons may be noted. The Southwestern rates range from 119 per cent to 203.6 per cent of the Western Trunk Line rates.

I will now discuss the question of rates and divisions via the Thebes gateway. Rates on classes between Chicago, Milwaukee and points taking the same rates and points in southeast Missouri were originally based on the combination on East St. Louis, Illinois or Thebes, Illinois, using as the factors north the proportional rates published by the Illinois lines in Agent Hosmer's ICC 17, effective September 20, 1909, to which rates were added the local rate from the southwestern lines beyond east St. Louis to Thebes, Illinois and published in Agent Leland's ICC 630 (Tr. 5446-5447).

My testimony deals with the divisions between Chicago and Southern Missouri. Rates from East St. Louis and Thebes to Southeast Missouri points were revised effective February 20, 1919 under the order of the Commission in Docket 9702. To points in southeast Missouri north of Cape Girardeau the rates figure on east St. Louis combination. The stations Cape Girardeau, Missouri and south the Thebes combination applied subject to the rate to the Arkansas border points as a maximum. The present rates are based on the August 25, 1920 factors increased 35 per cent as a result of Ex Parte 74 and reduced 10 per cent effective July 1, 1922. The reason the August 25, 1920 factors were used is because the Commission in Ex Parte 74 restricted the advance in joint through rates within

Western Territory, to 35 per cent. There the present through rates are off the basis I have mentioned it is due [fol. 1078] to the disposition of fractions under the General Order 28 and Ex Parte 74 advances. We have used for illustration the rates dealing in an historical way from September 20, 1909 up to date covering the following representative destination points on the Missouri Pacific, Frisco and Cotton Belt in southeast Missouri, Campbell, Popular Bluff, Delta and Horine, Wilburn, Cape Girardeau (Tr. 5448).

With the exception of Horine, the rates based on St. Louis combintion. To Horine the East St. Louis combination applies. In dividing these combination rates the lines north of Thebes, Illinois received in divisions the factors used north of Thebes in constructing the joint rates, namely, their proportional rate as of date August 25, 1920, increased 35 per cent under Ex Parte 74 and reduced 10 per cent effective July 1, 1922. It is customary to divide rates so constructed as they are made, that is by allowing each set of carriers serving the interchange points the rate factor used for its account to and from the rate basing point. For simplicity in accounting the respective accounting departments of the C. & E. I. and Frisco worked out two percentages to be used instead of applying the class arbitraries. They took the division north and south of Thebes from the first four classes, also cotton piece goods, to work out these percentages. In connection with the Frisco-C. & E. I. divisional case heard by the Commission to which specific reference will be made later, we submitted Exhibit No. 76 showing the revenue to the C. & E. I. on the basis of established arbitraries or specifics north of Thebes covering a representative period, compared with revenue based on applying the percentage basis where worked out by respective accounting departments. The difference was nominal, amounting to $1.13 cents for one month. The Missouri Pacific and the Cotton Belt applied the specific divisions. The detailed data is shown on pages 29 to 41, inclusive, and is self-explanatory (Tr. 5448-5449).

[fol. 1079] The present combination is not published as a through rate for the reasons I have indicated. In this connection I might state that if we had not published joint through rates September 20, 1909 for the convenience of the shipping public the same basis of rates and divisions in

effect today would be in effect except for the difference provided for by the 40 per cent increase in the proportional factor north of Thebes as against 35 per cent used in basing the through rate.

The commodity rates from Chicago and defined territories in Western Trunk Line Territory to southeast Missouri was based in the same manner, that is on either the Thebes or East St. Louis combination using the rate to the Arkansas border point as a maximum. Examples on rates on moving commodities are shown on page 42. Take for example the first item, iron and steel articles, merchant, the present rate from Chicago to Cape Girardeau, Missouri is 37 cents, the distance Chicago to Thebes 378 miles, Thebes to Cape Girardeau 28 miles. The lines north of Thebes contributed for their distance 21.5 cents, the western lines from Thebes to Cape Girardeau for the 28 miles service 15.5. Those two factors combined total 37 cents. Rates on other commodities listed on that page were worked out on the same basis (Tr. 5449-5450).

Where the Arkansas border point rate is observed as a maximum under the fourth section, it does not affect the proportional allowed to the lines north of Thebes, the division. The C. & E. I.-Frisco interchange is made at Chaffee, Missouri a point located 16 miles west of Thebes, Illinois, the western termini of the C. & E. I. The C. & E. I. and the Frisco are the only roads serving Chaffee, Missouri. The divisions applicable via Chaffee, Missouri were under review by the Commission in February 1922 in docket 11,825, 66 ICC 59. Divisions on all traffic to or from Thebes, Illinois in effect February 1922 were found reasonable by the Commission for application to and from [fol. 1080] Chaffee, Missouri, except that the C. & E. I. was allowed in addition to their divisions to or from Thebes, Illinois, 5½ cents on less carloads and 2½ cents on carload traffic, except coal and lumber, and on the latter 2 cents for their service between Thebes, Illinois and Chaffee, Missouri. It was allowed 40 cents on coal. These amounts were reduced 10 per cent effective July 1922. The interchange via Chaffee consists principally of forest products northbound and coal southbound. Mr. Lehmann of the Cotton Belt has covered the rate and divisional feature on forest products in his exhibit, via Thebes. The present division on coal from mines on the C. & E. I. and Frisco

points are the divisions found reasonable by the Interstate Commerce Commission except for the 10 per cent reduction (Tr. 5450-5451).

The Frisco does not interchange any freight via the Chaffee-Thebes gateway with any Illinois lines, other than the C. & E. I. and the Illinois Central. On coal from the Illinois Central and Southern Illinois mines the C. & E. I. acts as intermediate carrier from Thebes Illinois where it connects with the Illinois Central to Chaffee, Missouri where it is delivered to the Frisco. The division on this traffic was established by the C. & E. I. and the Illinois Central in joint conference several years ago. The C. & E. I. was accorded for its intermediate service on January 1, 1925 a division of 14.6 cents per net ton; effective January 1, 1925, this division was increased to 30 cents per ton. The data shown on the Illinois Central traffic exhibit, Witness Balch, No. A-43 covering interchange for the month of June does not reflect the present situation account of change in the arbitraries in division accruing to the C. & E. I. as above referred to. On all northbound traffic delivered by the Frisco to the C. & E. I. at Chaffee, Missouri the Frisco short hauls itself. The bulk of this traffic moves to territory other than points in southern Illinois and the route via East St. Louis is not circuitous, as will be observed by reference to the mileage data shown on pages [fol. 1081] Nos. 43 to 45. The distance for example from Chaffee, Missouri to Chicago via the C. & E. I. is 394 miles while via the Frisco and C. & A. through East St. Louis the distance is 428 miles (Tr. 5451-5452).

I will now deal with the handling of merchandise via the Chaffee gateway. Merchandise from Chicago, Illinois from which point the principal tonnage moves when to southeast Missouri territory, when destined to points in southeast Missouri, is loaded by the C. & E. I. in a package car to break bulk at Chaffee, Missouri. It is handled by the C. & E. I. in a through train from Chicago. When the freight is received by the Frisco, the freight is unloaded at Chaffee and the freight reloaded by the Frisco into a car, eight local way cars. The bulk of the movement on L. C. L. traffic through either Chaffee or East St. Louis is southbound and the distributing service of that traffic through the southwest is made by the Southwestern Lines and not by the Western Trunk Lines. I am going to give details to

show the burden that is placed on the Southwestern Lines in distributing that L. C. L. traffic through the Southwestern Territory. Page 3 of my exhibit shows that by far the larger movement of L. C. L. traffic is southbound (Tr. 5452-5453).

When this merchandise traffic is received by the Frisco in a package car from Chicago it is unloaded at the Frisco's Chaffee station and reloaded by the Frisco into eight local way cars, which are operated over the Frisco out of Chaffee daily to the southeast Missouri Territory and northeastern Arkansas territory served by the Frisco. These cars are handled from Chaffee by local freight crews who distribute the freight through the territory, a substantial portion of which is served by branch lines. On pages 46 and 47 is shown the territory served by each of these cars. Traffic from Chicago territory to Thebes through Chaffee is handled by the C. & E. I. loaded out of their Chicago freight station in what is termed a package car, loaded to break bulk at Chaffee, Missouri. The Frisco unloads the [fol. 1082] car and rehandles it (Tr. 5453-5454).

I will now deal with the handling of less carload merchandise by the East St. Louis-St. Louis gateway. I will first take up the handling of L. C. L. traffic on the Frisco. Merchandise traffic received from connections at East St. Louis and St. Louis is handled by them when from Chicago in their through package cars in their through trains. All this freight must be rehandled by the Frisco and distributed to points of destination by way cars in local service. Freight received at St. Louis is reloaded by the Frisco into 73 cars for distribution to various points (Tr. 5454).

The details as to these schedule cars are shown on pages 48 to 56 inclusive. Some of this merchandise traffic is loaded out of St. Louis for other transfer points. Note car 14, page 49, which carries freight for Springfield, Missouri transfer covering the territory for a substantial distance out of Springfield, including branches. Another such car is No. 50, page 53, Tulsa transfer car. The freight loaded out of St. Louis in cars such as these must be reworked at the transfer points designated and loaded in way cars serving the destination territory. Similar data is shown covering the cars loaded out of Kansas City daily, of which there are 67.

Kansas City data is shown on pages 57 to 64, Springfield, Missouri data is shown on pages 65 to 71. From Tulsa, Oklahoma we load daily 39 cars, the data covering these being shown on pages 52 to 76 inclusive. Similar cars are operated daily from Monett, Missouri, Memphis, Tennessee and Fort Smith, Arkansas. There are no through package cars loaded out of Chicago to Fort Scott points routed through Kansas City gateway. Such traffic as is received by the Frisco from connecting lines at Kansas City, the Wabash for example, is handled in through package cars, Chicago to Kansas City in through trains and is rehandled at the Frisco Kansas City depot and reloaded into the 67 cars, which we daily load out of our Kansas City [fol. 1083] freight house (Tr. 5455).

The C. & E. I. load some cars which break bulk at transfer points west of St. Louis, for example Springfield, Missouri, and that is why I have included some of our interior transfer points. The extent to which we distribute less than carload freight is apparent by an examination of the data shown on pages 77 to 95 inclusive, showing tonnage handled during October 1925 from Chicago via East St. Louis to each Frisco station. The tonnage from each origin point is separate. The data for the Illinois Central was not compiled. In November 1925 however, we received 481,859 pounds of merchandise from the Illinois Central at East St. Louis. The total on page 79 for the competitive points is 58,285 pounds. The grand total on page 81 for the local points is 113,982. The total for competitive points on page 82 is 39,435 pounds. The total for local points on page 84 is 85,870, the total, competitive points on page 94, is 1,965,115 pounds. The total local points page 95 is 835,979 pounds. From this data I want to acquaint the Commission to the extent to which the Frisco is called upon to perform the distribution service of the merchandise traffic received from Western Trunk Line points, the principal tonnage being from the city of Chicago (Tr. 5456).

The service given by the Frisco is illustrative of similar service given by other Southwestern carriers involved in this case via some routes. If we handle any merchandise from Chicago in through package cars to Texas, we rehandle at St. Louis and deliver to our connections at Fort Worth and it would be rehandled there and distributed from that point. On page 96 is a statement showing differ-

entials used in making rates from defined territories to points in Missouri and Oklahoma which I will refer to shortly.

I will now take up the question of rates and divisions via the East St. Louis-St. Louis gateway. As previously stated the through rates on classes from Chicago and other points in the defined territories in Western Trunk Line to South- [fol. 1084] eastern Missouri were constructed on the Thebes or East St. Louis combination. To the territory north of Cape Girardeau the East St. Louis combination applies; to the territory Cape Girardeau south the Thebes combination. In the division of these rates via East St. Louis gateway the Illinois lines are allowed when from Chicago for their service north of East St. Louis 65 per cent of the proportion accruing north of Thebes, Illinois, namely their proportional rate, which they used in making the present through rate. I refer to the August 25, 1920 proportional rate factors increased 35 per cent and reduced 10 per cent, the proportional of 65 per cent based on a mileage pro-rate as explained by Mr. Sickel (Tr. 5457-8).

The local rates south or north of East St. Louis are observed as maximum. To points north of Cape Girardeau, Missouri where the East St. Louis combination was used to construct the through rate, the lines north of East St. Louis received in the division the factor they contributed, namely their proportional rate as of August 5, 1925, increased 35 per cent and reduced 10 per cent. 65 per cent basis cannot be questioned because it would apply in dividing via East St. Louis the Chicago to Thebes proportional rates if through rates had not been specifically published. In other words had we not published a through tariff in 1909 the traffic today would move on basis of the present proportional rate to Thebes but the local beyond of that proportional rate to Thebes would divide by allowing 55 per cent north of East St. Louis. The only difference between that basis and the one that the lines north are now receiving is the difference of 5 per cent, as the result of the increase under Ex Parte 74 being 40 per cent Chicago to Thebes, Illinois proportionately, whereas the through rate was increased 75 per cent. The same basis is applied in dividing through commodities, commodity rates which were [fol. 1085] based as I have previously described (Tr. 5458).

The rates on classes from Chicago to points on the Frisco east of Springfield, Missouri, also south of Springfield, Missouri, in the direction of Thayer, Missouri, are published in Frisco's ICC 6005, and were based on using proportions shown in Illinois Freight Committee's rate sheet 3-B for lines from Chicago to East St. Louis, Illinois, plus rates beyond St. Louis per St. L. S. F. Railway, Ice 8005, subject when to points east of Springfield, to the Chicago to Springfield rate as a maximum; to points south of Willow Springs, Missouri, to Williamsville, Missouri, inclusive, the Thebes, Illinois, combination was used; using as the eastern lines factor the Chicago to Thebes proportional rate as of August 25, 1920, increased 30 percent, reduced 10 percent, observing as a maximum the Springfield combination; where the Thebes combination applies, the lines north of Thebes receive their proportional rates as of August 25, 1920, increased 35 percent, reduced 10 percent. As per Agent Boyd's ICC A-778. When via East St. Louis the lines north receive as their proportion the division used in constructing the through joint rates, their proportion being shown in I. S. C. division sheet three series. When the Chicago to Springfield rate is observed as a maximum the lines north of East St. Louis receive Springfield revenue (Tr. 5459).

On page 97 I have shown representative examples. The rates on some of the classes do not check with the combinations factors to and from the junction because the competitive rates were published as through rates prior to the general advances and the disposition of fractions throws the through rate off the present combination ½ to 1 cent in some instances. I referred to the rates from Chicago to Cuba shown at the top of page 97 compared with the combination factors shown at the bottom of the page. The [fol. 1086] rates on commodities are based on the East St. Louis or Thebes combination and divide as made. These examples are representative of the situation. To points in southwestern Missouri and Springfield, Missouri and west class and commodity rates are based differentials over the rates from St. Louis. These differentials are shown in detail on page 96. The through rates are published in Agent Boyd's tariff 18-C ICC A-1357. The present class

rates from St. Louis and Springfield, Missouri, have been influenced by the St. Louis to Kansas City adjustment and are the same or only slightly higher than the rates to Kansas City. The figures are as follows: St. Louis to Kansas City first class 92, second 78, third, 64½, fourth 46, fifth 33½, A 37, B 29½, C 26, D 20, E 17. St. Louis to Springfield rates first 94, second 79, third 64½, fourth 48½, fifth 38½, A 43, B 36, C 26, D 23, E 20½. As has been suggested by the carriers, also the Commission in numerous instances, the St. Louis, Missouri, to Missouri River rates are among the lowest in Western Territory, being depressed by competition as well as rate equalizations, equalization processes (Tr. 5459-5460).

Prior to June 25, 1918, the East St. Louis and Kansas City lines operated 60 cents scale between the rivers while from Chicago to Missouri River the rates were differentially related to the Missouri River rates, which projected a relatively lower basis of rates from Chicago to the River. To points in southwest Missouri and west of Springfield the rates grade up over Springfield. The current rates to Carthage and Joplin, Missouri, 74 to 94 miles respectively west of Springfield, are as follows: 112½, 97, 76, 61, 43, 50½, 42, 33, 26, 23. "To the territory immediately south of Springfield to the Missouri-Arkansas state line near Thayer, Missouri, the rates are higher than the St. Louis to Springfield rates, being based on the application of the [fol. 1087] 9702 scale from St. Louis figuring the mileage via Springfield, observing the Springfield combination as a maximum. That is southbound only. In dividing the Chicago-Springfield, Missouri, rate—this applies also to southwest Missouri points—the Chicago to East St. Louis lines are allowed Missouri River revenue. The basis for the Missouri River revenue was fully explained by Mr. Sickel. To points in Missouri west of Springfield the Chicago to East St. Louis lines are allowed the same revenue they receive on Springfield, Missouri, traffic. In other words the same revenue they earn Chicago to East St. Louis on traffic to the Missouri River proper (Tr. 5461).

Where the conditions are reversed, namely on traffic to or from St. Paul, the Southwestern carriers are allowed revenue west of Kansas City. The Chicago-East St. Louis

lines earn the following divisions in cents per 100 pounds for their service east of St. Louis, using the first four classes: 54, 43, 29, 19. They receive in excess of what they earn out of any other class rate traffic handled between Chicago and East St. Louis other than local traffic, for example on a shipment of merchandise from Detroit, Michigan, to East St. Louis they earn for their service Chicago to East St. Louis the following: 47.8, 40.3, 31.3, 23.7. On a shipment from St. Paul Territory going to St. Louis they earn for their service Chicago to East St. Louis the following: 36.4, 29.3, 23.6, 17. That is shown on page 98 of my exhibit. To the best of my knowledge those are the going rates on that traffic. Their service in handling this class of traffic is similar to that as on Chicago to southwest Missouri traffic (Tr. 5461-5462).

The individual lines published those percentage sheets. If they have been changed I have not been advised of it. The Chicago-East St. Louis lines earn the same divisions on this southwest Missouri traffic as they receive on ship-
[fol. 1088] ments from Chicago territory to points in Oklahoma, Colorado or Utah common points via East St. Louis. The class rates from Chicago and other points in Western Trunk Line Territory to points in Oklahoma are based differentially over the rates from St. Louis using differentials as shown on page 96 and are published in Southwestern Lines tariff 15-L, Agent Leland's ICC 1562. The rates from St. Louis are on approximately the 9702 scale. That is to the entire state of Oklahoma. Witness Sickel explained the divisional situation. On traffic from Chicago to points in southwest Missouri the Frisco earned less for this service west of East St. Louis than it earns on similar traffic from points competing with Chicago, for example the first class rates, Chicago to Joplin is -1.42½, which divides 54 cents Chicago to East St. Louis, beyond 88½. On similar traffic from Peru, Indiana, approximately the same distance from East St. Louis as is Chicago, we earn on first class traffic $1.12½ versus 88 cents west of East St. Louis on Chicago traffic (Tr. 5463).

Peru is in C. F. A. Territory. The through rate from Chicago to Joplin is $1.42½. That is shown on the middle block on page 99. I am making a comparison showing

that the earnings under this rate are 88 cents to the Southwestern Line while under the rate from Peru to Joplin our earnings are $1.12½. First class rates from Chicago to Enid, Oklahoma is $2.27½ and divides by allowing for the service Chicago to East St. Louis 54 cents and allowing west of East St. Louis $1.73½; on similar traffic from Peru, Indiana, the first class rate is $2.46½ which divides Peru, Indiana, to East St. Louis 62½ and west of East St. Louis $1.84, or 10½ cents more on Peru, Indiana, traffic than the lines west of East St. Louis earn on traffic from Chicago for similar service west of East St. Louis. On pages 99 to 107 are shown numerous other instances all of which show the same result and the same relative earnings (Tr. 5464). [fol. 1089] On class traffic from points in C. F. A. Territory to points in Oklahoma the Frsico earns more for its service west of East St. Louis than it earns on similar traffic from Chicago for service west of East St. Louis. For example on the first four classes, Chicago to Tulsa, Oklahoma, the Frsico earns for its service west of East St. Louis the following divisions: $1.51, $1.39½, $1.08, 87, shown on page 105, while on traffic from Detroit it earns west of East St. Louis $1.71, $1.43, $1.22½, $1.01½; on Chicago to Hugo, Oklahoma the Frisco earns west of East St. Louis $1.69½, $1.62, $1.44½, $1.25½, page 107; and on traffic from Pittsburgh, Pennsylvania to Hugo it earns west of East St. Louis $1.92, $1.62, $1.38½, $1.19½. Other similar comparisons are shown on pages 105 to 111 inclusive (Tr. 5464-5465).

Of the earnings east of East St. Louis on Joplin, Missouri, traffic the C. F. A. lines get a much larger percentage of the rates than the Western Trunk Lines do on traffic north—traffic from Chicago, for example, for substantially the same haul. That might indicate that the Chicago rates are too low. That is the only comparison that you can draw. Of course our earnings are greater on that class of traffic west of East St. Louis than Chicago and the earnings of the Eastern Lines are greater than the earnings of the Chicago-St. Louis line. The result is that on the C. F. A.-Chicago traffic the earnings of both such carriers are greater because there is more money to divide. The Chicago man gets into our local territory at our expense (Tr. 5465-5466).

The Chicago-East St. Louis Line on iron and steel articles from Pittsburgh, Pennsylvania, to East St. Louis receives 28 percent of the local rate of 43 cents, or 12 cents. On shipments from Pittsburgh, Pennsylvania destined to points in the Southwest moving under through rates they earn, Chicago to East St. Louis 9.9 per 100, or 28 percent [fol. 1090] of 35½ cents, which is the division Pittsburgh to East St. Louis on traffic for Oklahoma. On similar traffic from Chicago to points in southwest Missouri, also points in Oklahoma, the Chicago to East St. Louis lines receive a division of 18 cents per 100 pounds. In that connection I might mention that the rate on merchant iron from Chicago to Tulsa, minimum 46,000 pounds is 69 cents. On shipments from Pittsburgh, Pennsylvania, destined to Missouri via the Kansas City gateway the Frsico earns less for its service than other western lines earn for similar mileage hauls west of Kansas City on traffic from Chicago; for example on a first class shipment from Chicago to Carthage, Missouri, the Frisco earns west of Kansas City 58½ cents for a haul of 151 miles while a similar shipment to Helmich, Kansas, the line west of Kansas City earns 74.9 for a 152 mile haul. Other instances are shown on page 112 and 113. Page 112 shows the through rate to Carthage and Helmick. "A" is through rate. Through rate is lower to Chicago. I would not say that that exactly accounts for the shrink. We get less revenue than other lines do for similar service west of Kansas City. One factor might be that there isn't enough revenue to divide (Tr. 5466-5467-5468).

The proportions received by the Western Trunk Lines for their service to Kansas City on traffic from Chicago to points in Oklahoma are approximately the same or greater than they earn on other joint traffic where their hauls are the same; for example the line east of Kansas City, the Wabash for example earns on Chicago to Tulsa traffic for their haul of 452 miles, using the short line distance on first four classes 90.4, 81.4, 55.9, 46.6, while from Omaha to East St. Louis 417 miles the Wabash earns 81.5, 65.1, 42.8, 31.1, out of the Omaha, Nebraska to Cairo proportional rates. [fol. 1091] Other similar examples are shown on page 114. The Frisco handles very little traffic beyond Kansas City originating at St. Louis destined to points in southwest

Missouri, or Oklahoma points. This is because of the fact that the Frisco rails extent West or southwest from St. Louis. The distance via the Wabash or C. & A. to Kansas City then Frisco to this territory is circuitous. The extent of circuitity to representative points is shown on page 115. To Springfield, Missouri, the route St. Louis to Kansas City thence Frisco to Springfield is 212.5 percent of the short line route. To Tulsa the route through Kansas City is 137 percent of the short line distance (Tr. 5468).

The Western Trunk Lines earn approximately the same revenue on miscellaneous carload traffic from the southwest via East St. Louis gateway for their haul East St. Louis to Chicago as they earn on similar through traffic interchanged via the same junction originating in other territories. Note examples on page 116. To illustrate, on ore, lead, zinc, concentrates, from Henrietta, Oklahoma, to Chicago, the lines north of East St. Louis earns 6.3, which is the same revenue they earn on similar traffic from Cherryvale, Kansas. Another illustration is the division on crushed stone or chats from Carthage, Missouri, to Chicago, the lines north of East St. Louis earning 6.1 out of a rate of 18½ cents. That rate is in cents per 100 pounds. This is the same division they earn north of East Et. Louis on the same commodity from Galena, Kansas, to Chicago the rate being the same. Other comparisons are shown of the divisions via Kansas City merely to show the extent of the competitive relationship, the route via Kansas City versus the route to East St. Louis. The various exhibits showing interchange for June 1924 indicate a large movement of tin cans, carloads, from Chicago rate points to Frisco des- [fol. 1092] tinations in Missouri and northwestern Arkansas. The Commission in its recent decision in I & S 2107 revised the rates on tin cans from Chicago and points taking the same rates to points in the so called 9702 territory, effective October 2, 1925, from Chicago to Arkansas points such as Elkins and Bentonville, Arkansas (Tr. 5469).

The present rates are based on the 9702 scale, using the mileage from St. Louis plus a differential of 15½ and 8 cents per 100 respectively being the present fourth class rate difference, Chicago over St. Louis. Tin cans are rated fourth class. On Arkansas traffic the Chicago to East St. Louis lines earn fourth class divisions of 27½ cents to St.

Louis as shown in I. F. C. Division sheet 5, their present proportional rate is 28½ cents, Agent Boyd's ICC A-1438. The latter proportional rate is 40 percent higher less 10 percent than the August 25th rate, while the 27½ cent division is 35 percent higher less 10 percent. From Chicago to Springfield, Missouri, the present rate on tin cans is figured on the basis of the 9702 scale from St. Louis plus 7 cents per 100, the present fourth class difference Chicago over St. Louis to Springfield. To the territory in Missouri immediately south of Springfield, points such as Mansfield, West Plains, Missouri et cetera, various rates were established effective October 22nd but on an improper basis exceeding the Springfield combination. The question of revising these rates is now having our attention and an effort will be made to straighten out the situation promptly. Either the Springfield combination will be established or the Chicago to Mammoth Spring, Arkansas rate of 81½ cents will be applied. I merely call attention to this situation now to show that the June, 1924, statistics do not reflect the present situation (Tr. 5470).

[fol. 1093] The lines north of East St. Louis from Springfield, Missouri, traffic receive 22 cents or 3 cents higher revenue than they earn on similar traffic destined to Kansas City proper. Authority, Illinois Freight Committee Division Sheet 3, item 90. On the Illinois Central traffic statistics for 1924, they show a movement of coal from Illinois mines to stations on the Frisco via East St. Louis and St. Louis. The present rates on coal from Illinois mines to Frisco stations west of St. Louis were established several years ago based on allowing to East St. Louis a proportional rate of 25 cents per net ton to which was added the Mississippi River bridge tolls plus arbitrary proportions of the Frisco west of St. Louis. Later the proportion for the initial lines was revised to 30 cents per net ton due to an advance in their rates in Illinois. After the advance under General Order 28, June 25, 1919, the proportion for the initial lines was by agreement made 42 1/2 cents per net ton; under Ex Parte 74 the rate became 57.4 cents per net ton and as the result of the July 1, 1922, reduction 51.7 cents per net ton. Rates from DeQuoin and Murphreesboro and southern Illinois groups are made differentials 7 1/2, 19 1/2 and 22 1/2 cents per net ton respectively

higher than the rates from Bellville, the base group. In dividing these rates from the other groups the Frisco received west of St. Louis, Bellville's revenue. In this connection I want to state that the Illinois Central has recently established rates from their west Kentucky mines based on 136 per net ton to East St. Louis, plus the Mississippi River bridge tolls allowing the Frisco west of St. Louis Bellville earnings. Those rates will divide as made. This is an example of the way a great many of our rates are constructed to and from the East St. Louis gateway (Tr. 5471-5472).

I will now take up the question of rates and divisions on [fol. 1094] fruits and vegetables. The June 1924 statistics as to other carload traffic include a great many cars of strawberries and peaches. That by far is the greater proportion of the other carload traffic interchanged with the Frisco Railroad for the month of June 1924. There is a large volume of fruits and vegetables originated in southern Missouri and Arkansas and going to Western Trunk Line Territory. I might read into the record the production of fruits and vegetables on the Frisco, the bulk of which moves to the popul-us sections of the north and east. The Frisco produced for the year 1925 the following: Apples 3,791 carload; cantaloupes 458; peaches 168; that was a light year; the previous year was 628 carloads; potatoes 798; strawberries 1,585; grapes 442; sweet potatoes 86; cucumbers 11; tomatoes 42. The present divisions on berries, except for the general advances and reductions, are the result of an agreement between the Western Trunk Lines and the Southwestern Lines several years ago. Later on an agreement was reached as to the divisions on peaches and grapes (Tr. 5472).

On pages 119 to 153 inclusive are shown extracts from Western Trunk Line records indicating the basis of divisions together with copies of the division sheets of the Western Trunk Lines in effect prior to the agreement. Copies of letters of Western Trunk Line roads agreeing to the divisions as now published. The current divisions are shown in joint division sheet issued by the Misouri Pacific, their division basis 5984, copy of which is contained in Witness Buhrle's Exhibit No. A-5 and is listed in Buhrle's Exhibit A-8. Pages 117 to 123 deal with the Western

Trunk Lines, their records as to divisions on strawberries. The report of the divisions committee which was finally adopted in conference with the Frisco shows the arbitraries north of Kansas City and East St. Louis which were finally agreed upon, that being shown on page 123 together with [fol. 1095] the basis for those proposed arbitraries which was an average of the third class rates. On page 120 is explained the basis for the proposed arbitraries. On pages 124 to 141, inclusive, are shown copies of the division sheets of the principal Western Trunk Line roads, also the Frisco sheet, showing the divisions on berries prior to the divisions being incorporated into the joint sheet. There is also reproduced copies of correspondence with the principal Western Trunk Line roads advising of their acceptance of the basis shown in the Missouri Pacific sheet. On pages 142 to 153, inclusive, is reproduced copies of the division sheets of the principal lines involved dealing with the rates on peaches (Tr. 5473).

On page 154 is a list of the Southwestern Freight Bureau lines who are interested in the agreement as published in the Missouri Pacific sheet and on page 155 a list of the Western Trunk Line roads involved. The rates on strawberries and other fruits from southwestern Missouri and northwestern Arkansas are divided both on the arbitraries and on the percentages published in Western Trunk Line's division sheet, 315-A. It depends upon the origin territory. I have made no figures as to proportions. I don't know what the proportions would be. My understanding is the Western Trunk Line roads in their committee handling were of the opinion that the greater proportion originated in the territory in connection with which they worked out agreed arbitraries but I never made any test of it myself. The rates published by the Frisco on strawberries were constructed with regard to the revenue of the Frisco for its service to St. Louis. The rates were not made on a mileage basis. Neither were they made on a differential over some basing point. They were made by combining the factors of the respective carriers; that is the Frisco in the southwest and the lines north of East St. Louis on the north. In April 1906 the Frisco published in ICC 5200 revised rates [fol. 1096] on strawberries as explained on pages 156 to 158. They established the rate from Fort Smith, Arkansas, the base group to St. Louis of 59 cents. Through rates

were constructed using Chicago for illustration (Tr. 5474-5475).

The rate of 59 cents applied to both St. Louis and East St. Louis. It divides, of course, so that we give 56 cents to St. Louis, 3 cents for the transfer. We have to pay the terminal for handling from St. Louis to East St. Louis. The rate was made 50 cents to St. Louis and applied to East St. Louis. I don't know what they took into account. I did not examine the record to develop that fact. But we established the rate from Fort Smith, Arkansas, the base group, to St. Louis of 59 cents and applied it to East St. Louis and to that factor we added a local rate of 18 cents per 100, applied north of East St. Louis to Chicago, first advancing the 18 cent rate 118 percent because the 18 cent rate carried a minimum of 20,000 pounds while the through rate we were constructing was to carry a minimum of 17,000 pounds and it was to return the lines north of East St. Louis their local rates that we increased said rate 118 percent (Tr. 5475).

The local rate was 18 cents as published in C. & A. ICC 1518. That issue was governed by the Illinois classification No. 10, Agent Tucker's ICC 38, and strawberries, carloads were fifth class. The data we had in our records indicated a local rate was used and we did not develop that the Illinois classification classified berries as fifth class instead of third until after these sheets were prepared. So on the Chicago statement, the Chicago rates, where we show the third class rate north, it was the fifth class rate. The rate was 18 cents applied to a minimum of 20,000 pounds. [fol. 1097] And we increased it 118 percent to 21 cents so as to allow north of East St. Louis the same revenue per car on 17,000 pounds as they would have earned on the 18 cents for 20,000. That made a rate from Fort Smith to Chicago of 80 cents. Rates to other points shown on page 156 to 158 were constructed in a similar manner, that is on the East St. Louis combination, increasing the northern factor 118 percent, because of the varying of the minimum north versus south, the through rate carrying a minimum of 17,000 pounds (Tr. 5476).

The 59 cent factor of the western Lines was for a haul of 419 miles, the 21 cent factor for the East St. Louis-Chicago

lines for a haul of 279 miles. The western carriers contributed 73 3/4 percent of the through rate performing 60 percent of the service. Rates from other origin points were made differentials over or under the base group, Fort Smith. The rates were made applicable via Kansas City and the basis agreed upon with connections via that gateway. The lines beyond Kansas City meeting the competition of the East St. Louis carriers. The Frisco at that time handled the bulk of the traffic via East St. Louis and that situation exists today. The rate published to St. Paul of 1.07, the East St. Louis combination, increasing the eastern factor to 118 percent was later revised to the Texas common point rate of 91 1/2 cents. The rates, the basis for which is explained on pages 156 to 158, divided as made. That is, Frisco to East St. Louis receives the factor contributed in the basing rate and the lines north the factors they contribute. In other words the customary method of dividing rates made as I have outlined was applied. On page 159, have shown rates and divisions on strawberries via East St. Louis in effect prior to the agreement between the Western Trunk Lines and the Southwestern Freight Bureau Lines as to the basis of divisions to be applied. [fol. 1098] Also the division resulting from the agreement and how these present rates divide (Tr. 5476-5477).

It will be noted that on berries from Fort Smith, Arkansas, to Chicago, while the lines north of East St. Louis originally received 21 cents, the factors that they contributed in the basing of the 80 cent rate, they were subsequently allowed a division of 22 cents, or in other words 1 cent more than the factor used for their account in constructing the through rate. That factor was the local rate and not one of the so called arbitraries or differentials. I gave the authority for that a moment ago. The present divisions reflect an increase under Ex Parte 74, 35 percent, first came the General Order 28; in other words this agreement was in effect prior to 1917; I haven't got the exact date of the agreement (Tr. 5478).

Referring to the St. Paul figures subsequent to the 91 1/2 cent rate, the rate went up 25 percent, then 35 percent, and was then reduced 10 percent. The 48.6 should be an increase over the 32 cent rate in the same ratio. As a result of those increases the Western Trunk Line division has in-

creased 16.6 cents and our division was increased the difference between 56 1/2 and 85.4 cents. On page 160 I have shown the present rates and divisions, the only difference between 159 and 160 is that 160 shows a great many more destination points. We did not have time to work out the data shown on page 159 for account of all the points shown on page 160. We just took the main representative points. The current rates and divisions via Kansas City are shown on page 162. The lines east of Kansas City, on berries from Springdale, Arkansas, for example prior to 1913 received 25 cents (Tr. 5479).

[fol. 1099] On shipments destined St. Paul this division was increased to 38 cents although on berries from Texas they earned 32 1/2 cents. The present division is 57.7 cents. On page 161 there is shown the rates and divisions on berries via Kansas City on various dates. In other words these two sheets are a companion of the other two except that they apply via Kansas City, and page 162 carries some additional points not included on 160. Because of lack of time we could not work out the same data on all the points that are shown on 162, as are shown on 161. Looking at Springdale, Arkansas, via Kansas City to Chicago, shown on page 161, the Frisco to Kansas City has a haul of 261 miles and gets 65.8 cents; the eastern lines have the haul from Kansas City to Chicago, the short line milage of 452 miles and get 51.7 cents. These divisions were worked out in conference between the Western Trunk Lines and the Southwestern Lines, taking three represenative groups of origins, the tariffs have thirteen groups of origins and the Western Trunk Line roads selected three groups of origins which they thought were representative of the situation and applied a rate pro-rate using the third class factor up to Kansas City and beyond, up to East St. Louis and beyond, and with those factors, or from those factors they arrived at a set of arbitraries satisfactory to them and agreeable to the Southwestern Lines for their service, constant service north of Kansas City or north of East St. Louis. These divisions represent the approximation of the rate pro-rate reached at that time, except as increased under General Order 28, Ex Parte 74, and reduced 10 percent July 1, 1922. Naturally the Kansas City gateway took into account the competitive route through East St. Louis to certain points (Tr. 5480-5481).

The Farmington, Arkansas, situation from Chicago, 276 [fol. 1100] miles south, 77 1/2 cents and for 452 miles north 40 cents looks a little out of line. That is shown on page 101, the averages from groups 2, 5, and 8. The third class rates are shown. On page 121 is reproduced a copy of the Western Trunk Line records showing the basis for those offsets. I did not check each one of them out because on page 120 is explained the basis for the proposed arbitraries from the Western Trunk Line records and I took it at 100 percent fact value (Tr. 5481).

I will not deal with peaches. The rates on peaches were established years ago using class "A" rates and divisions which were agreed to by our various connections at Kansas City and East St. Louis. The proportions accruing beyond the gateways were stated in arbit[redacted]es. These divisions were also under review by the [redacted]estern Trunk Lines and the Southwestern carriers and during 1917 an agreement was reached as to the specific proportions which the Western Trunk Lines were to receive beyond Kansas City or East St. Louis. These proportions were published in the Missouri Pacific division sheet previously referred to. On pages 163 to 165 are shown the third class rates from representative origin groups to and from Kansas City, also St. Louis; and on pages 164 to 165 are shown the averages for the 11 groups, that is the average of the third class rate pro-rate. The proportions finally agreed upon were slightly in excess of these average figures. For example, turning to page 165 the average for the Des Moines group shown at the extreme right of the page 17.4, the proportion agreed upon was 18.7. On the next group, the Cedar Rapids group a division of 20.2 was agreed to, the average being 18.9. The next group St. Paul, the division of 25.9 was [fol.1101] agreed to, the average for the 11 groups being 24.7 (Tr. 5482).

On the Chicago group the division north of Kansas City, 22.4 was agreed to, the average of the 11 groups being 21. Via East St. Louis, page 164, the lines north were allowed on Des Moines group 20.2 the average of the 11 groups 16.6, Cedar Rapids group 21.9 allowed north of St. Louis the average of the 11 groups 17.9; on St. Paul group, lines north allowed 26.4, average of the 11 groups 22.4; on Chicago group, lines north allowed 17.4, average of 11 groups

13.8. On those two pages, Mr. Towner, pages 164 and 165 you will see the different averages worked out for account of each group, each one of the 11 groups. Now the berries were worked out the same way except that they took three representative groups. That is the three groups that I have shown. They were selected by the Western Trunk Line roads. On page 166 I have shown the rates and divisions in effect on peaches via East St. Louis on various dates. It shows that the lines north of East St. Louis received an advance in divisions as the result of the 1917 conference for example on peaches from Hulbert, Oklahoma, to Chicago, the lines north of East St. Louis prior to May 1917 received 14 cents. Effective May 15, 1917, they were allowed 17.4, on Milwaukee traffic the increase to the lines north of East St. Louis was 5.2 in other words from 16 to 21.2. Other examples could be mentioned. The origin and destination points shown on this exhibit are representative. There are actual shipments from these points and we reflect the general situation (Tr. 5483).

The current rates and divisions via East St. Louis are shown on page 167. The lines east of Kansas City received increases in their divisions as the result of the 1917 confer- [fol. 1102] ence, for example, on potatoes from Van Buren, Arkansas, the following divisions east of Kansas City were made effective to Des Moines, 18.7, the former division was 17.1; Fort Dodge, Iowa, 20.2, old division 18.5; St. Paul, Minnesota 25.9, old division 24.23; Chicago 22.4, old division 20.7; Milwaukee, Wisconsin 23.8, old division 22.2. The current rates and divisions are shown on page 168. Rates on grapes were based the same as on peaches. However, the Western Trunk Lines were unwilling to accept the same divisions as on peaches and as the result of the 1917 conferences the Western Trunk Lines were allowed the same proportions beyond Kansas City or East St. Louis as they received on strawberries resulting in substantial increases in their proportions. For example from Springfield, Arkansas, a representative shipping point, the lines north of East St. Louis on Chicago earned prior to the issuance of the joint division sheet, 14 cents per hundred. This proportion was increased to 22 cents. To Minneapolis-St. Paul the proportion of northern lines was increased 23 1/2 cents to 32 cents. Another example from

Seymour, Missouri, to Chicago, the lines north of East St. Louis received on Chicago an increase of 19 cents to 22 cents. In no case did they receive a reduction (Tr. 5484).

The rates on potatoes from Arkansas and Oklahoma producing points to Chicago were originally constructed by adding to the local rate from Fort Smith, Arkansas, or Fort Gibson, Oklahoma, both of those points being in the center of producing territory, to East St. Louis the rate of 25 cents per 100 pounds, the class "C" proportional rate East St. Louis to Chicago of 12 cents as per Agent Boyd's tariff 506-B, ICC A-281. To St. Paul, Minneapolis the rate of 43 cents per 100 was based on St. Louis combination [fol. 1103] using Fort Smith, Arkansas, or Fort Gibson, Oklahoma, to St. Louis rate 25 cents plus local rate north of 18 cents. The potatoes produced on the Frisco are the early variety and find a market principally in Chicago and the movement is via the East St. Louis gateway. These rates divide as made, that is to say the lines north of East St. Louis receive the proportional rate used in basing the joint through rates or 12 cents per 100 pounds to Chicago and 18 cents per 100 to St. Louis. The present divisions reflect the respective local or proportional rates of the two groups of carriers from and to the gateways, except that on berries. They rework the divisions as I have explained (Tr. 5484-5485).

It is practically the factors contributed by the lines north of East St. Louis in the original basing rate like I pointed out, they contributed 21 cents to make a rate Fort Smith, Arkansas to Chicago for their service beyond East St. Louis, then they were alowed 22, and I gave other exampes along the same line. On potatoes via the Kansas City gateway the lines east of Kansas City agreed to accept the proportions shown on page 169. The division of 14.8 east of Kansas City on Chicago being based on allowing 40 percent of the Fort Smith, Arkansas, rate of 37 cents. Chicago should have been shown in that sheet taking a rate of 37 cents, and Milwaukee was 2 cents higher. 14.8 division was established east of Kansas City in competition with the routes east of St. Louis. As I previously stated the bulk of the potatoes moved through the East St. Louis gateway. That accorded the Frisco its maximum haul. On page 170 I have shown the rates and divisions on apples,

carloads, from representative points to various destinations effective on the dates shown. There is no particular significance about the different effective dates shown here. We made this statement up along the same form of the peaches and berries but apples were not included in the [fol. 1104] agreement with the Western Trunk Line roads (Tr. 5486).

These rates were based originally via East St. Louis by combining the factors desired by the Frisco for its service to East St. Louis to the class "C" proportional rate north required by northern connections, the class "C" factor being shown in Agent Boyd's tariff 506-B ICC A-281. In other words the lines north of East St. Louis were willing to accept class "C" on apples, class "C" being the basis they accepted north of East St. Louis on potatoes. A through rate from Rogers, Arkansas, a representative shipping point, to Chicago, in 1912 was 37 cents, which divided by locals north of East St. Louis with class "C" proportional rate of 12 cents. Subsequent advances and reductions as a result of orders from the Interstate Commerce Commission have been subdivided on a revenue basis. Via the Kansas City gateway the proportions shown on this statement were agreed to by our Kansas City connections who were anxious to handle the traffic via that gateway in competition with the East St. Louis gateway. On page 171 I have shown the present rates and divisions on watermelons from producing points in southeast Missouri and southeastern Arkansas. The notations contained on page 2 at the bottom of that sheet can be cancelled. For example the rate on watermelons from McMullin, Missouri, district to Chicago of 35 1/2 cents is based on the present Thebes, Illinois, combination using locals from McMullin, Missouri to Thebes 12 cents per 100, distance 32.2 miles, plus proportional rate Thebes, Illinois to Chicago of 23 1/2 cents, distance 378 miles; Agent Boyd's I. C. C. A-1438 (Tr. 5487). [fol. 1105] This is an example, Mr. Examiner, that is representative fruits and veegtables. It shows the relationship in our factors up to the river, our rate level with factors north. Here on watermelons we contribute for our 32 mile service to Thebes 12 cents, while our connections north of Thebes contribute 23 1/2 cents for 378 miles. Now rates so constructed are divided as made. That emphasises the

importance of anybody discussing rate features being fully conversant with the basis for the rate. From other producing points in southeast Missouri and northeastern Arkansas, the same basis applies, namely combination on Thebes, Illinois or based arbitraries over the base group. The base group is Clarkton, Missouri, shown on page 171. The Mississippi River transfer service is absorbed by the Southwestern carriers on all traffic (Tr. 5487-5488).

The rates on watermelons from the Clarkton, Missouri, district to Milwaukee are based on the Thebes combination using the local rate to Thebes as shown on Exhibit No. 171 plus the proportional rate from Thebes to Milwaukee of 26 1/2 cents. The rate to Minneapolis based on the St. Louis combination using the rate of 17 cents from Clarkton, Missouri, group to St. Louis is per Frisco ICC 8051 plus rate 27 1/2 cents St. Louis to Minneapolis, Agent Boyd's I. C. C. A-1175. Rates to Des Moines, Iowa, and Sioux City, Iowa, are also based on the St. Louis combination. These rates divide via St. Louis as made, the lines north receiving their local and the lines south their local. Chicago rates divide on East St. Louis by allowing 17 cents to East St. Louis, balance North, or 2 cents less North than the present proportional rate. Authority for this division is Illinois Central Division Sheet 8457, Supplement 13, and C. & E. I. Division Sheet 1, and Frisco Tariff 1250, [fol. 1106] I. C. C. 8051. The route via East St. Louis accords the Frisco maximum haul. The Frisco has no route with the Illinois Central via Thebes. The Illinois Central can only secure a haul in competition with the C. & E. I. via the East St. Louis gateway (Tr. 5488-5489).

I will now comment on the furnishing of equipment for the handling of our fruit and vegetables, also mention other features incident to originating of the traffic. The Frisco is the largest producer of strawberries in the Southwest. This tonnage now constitutes one of its most important sources of revenue. Strawberries are the most perishable traffic we handle. To provide the necessary equipment is hazardous and expensive. Last year the Frisco handled in freight service 1,585 carloads. Equipment to handle this tonnage was secured under contract with the Merchant Dispatch Transportation Co., the Frisco guaranteeing to the latter rental on basis of 2 cents per car mile over the Frisco

with a minimum payment of $2.00 per car per day, the time being computed on the number of days the car remains on Frisco rails, either empty or under load (Tr. 5489-5490).

In other words we pay 2 cents per car mile and guarantee $2.00 per day. Now if we handled the car 100 miles we had no money to pay on the guarantee because the 2 cents per mile basis covered, but if the car remained on hand and did not move the minimum of 100 miles, we had to pay $2.00 per day for every day that that car did not make 100 miles. To properly handle this commodity it is necessary to secure an adequate supply of these cars for several weeks prior to the beginning of the season. The cars usually are received empty from eastern connections, East St. Louis. They are hauled empty over the Frisco either to Monett, Missouri, 282 miles, Rogers, Arkansas, 333 miles, or Fayetteville, Arkansas, 353 miles, where icing facilities are maintained and operated by the Frisco. As [fol. 1107] equipment is needed the cars are placed at the ice docks at either of the three points mentioned to be iced. After being iced they are distributed to the various shipping points. It is not possible owing to the number of cars necessary to take care of the seasons movement to store all of the cars at Monett, Rogers or Fayetteville. The empty refrigerator cars are placed on available sidings as near to the icing stations as possible. Where cars are stored away from icing points it is necessary to switch them to the icing dock at points mentioned to be iced before they can be placed at the various shipping points to be loaded (Tr. 5490-5491).

Berries are so highly perishable that they cannot be left without refrigerator protection. Therefore at times it is necessary for the Frisco to perform special service to take care of a prospective movement which developed after the regular supply of cars has been placed for loading. At the close of each day during the shipping season the Frisco operates switcher pick up service in order to remove the loaded cars at Monett, Missouri, for handling special berry trains to Kansas City and St. Louis respectively. Cars loaded in the territory west of Pierce City, Missouri, are switched to Carl Junction, Missouri, at which point they are picked up, that is for movement via the Kansas City route. At the beginning of the berry season, which starts

usually the last week in April and continues until early in June, the Frisco operates these specials daily regardless of the number of cars available for forwarding, as it is essential due to the highly perishable character of this traffic that it be given expedited movement and that connection be made at Kansas City or St. Louis with regular first class freight trains operated beyond by our various con- [fol. 1108] nections (Tr. 5491).

During the season of 1925, number of cars handled daily by these trains ranged from a minimum of 1 to a maximum of 33 cars. Payment to the Merchants Despatch Transportation Company for the calendar year 1925, covering the use of these refrigerator cars in the handling of perishable products originating on the Frisco, cost the Frisco $72,518.31 over and above the amount received by the M. D. T. Company on the basis of 2 cents per car mile. Premiums amounted to $9.15 per car. The latter amount is the guarantee per car as applied to the entire movement after allowing credit for the mileage paid. We handled in the year 1925, 7927 M. D. T. cars and the amount over and above the mileage we paid them under the basis of 2 cents per mile representing the premium or guarantee of $2.00 per day per car. The Frisco maintains additional forces in the operating department during the berry season to assist in the expedited movement of this traffic, also to supervise this service. Our perishable traffic is not balanced and for that reason it is necessary to furnish this special service to make the connections with the regular schedules, fast service north of East St. Louis or east of Kansas City. In encouraging the production of berries the Frisco has expended thousands of dollars in the construction of freight sheds at the principal shipping points. In connection with the furnishing of equipment to take care of the fruits and vegetables, the originating carrier has to assume the expense resulting from the effect of climatic or other conditions on the volume of production (Tr. 5491-5492).

These conditions are varying and there are at different seasons violent fluctuations in the movement. As an illustration our estimate for the apple crop for the year 1922 was 2,200 cars. Due to adverse weather conditions this condition was reduced that year to 2100 cars, later extremely favorable weather conditions developed and the

[fol. 1109] final movement was 3,060 cars. In the year 1923 our estimate in August showed a possible apple crop of 4,850 cars. In September during the loading season adverse weather conditions brought a reduction in our estimate to 4,200 cars and the actual movement was 4,045 cars. In 1924 crop conditions on apples were normal throughout the entire season. An estimate of 4,400 cars was almost reached, the total movement being 4,403. The season of 1925 started with exceptionally favorable conditions and on July 1, 1925, it was estimated as to the apple crop, a possible production of 6,412 cars, and we made arrangements for a car supply on that basis. In the period of two weeks during the latter part of August or early in September we lost 2,000 cars of apples by excessive heat and drouth. The final figures showed a movement of 4,000 cars. There were violent fluctuations in the cantaloupe production although we have no figures available at this time showing specific figures for past season. The grape crop is usually somewhat more stable, but in 1925 a May frost injured the vines and fruit in such a way as to be extremely difficult to make any safe estimate on our car supply needs. An estimate was made of a -rospective crop of 628 cars, but we only produced 442 (Tr. 5492-5493).

It is necessary to change our estimates on strawberries almost daily during the harvesting season owing to weather conditions; instances have been known where there have been killing frosts that have cut the harvest from two to two hundred cars over night. We maintain a man in the field making daily reports. We must have a refrigerator car ready to receive every crate of berries the day they are picked and our daily loading of berries runs from a few cars a day when weather conditions are adverse to as high as 100 cars in the heighth of the season when weather conditions are ideal. We hold in readiness as many as 200 or 300 cars in the territory during the rush season as a pro-
[fol. 1110] tection against these violent fluctuations which we have no means of taking care of without such an accumulated surplus. Under our present contract with the M. D. T. Company they receive a minimum rental of $2.00 per day. The car haul empty and the great detention of equipment held for fruit and vegetable loading is very heavy and expensive. We took the car record on 50 cars assigned to

berry shippers selected at random to determine the extent of empty haul by the Frisco and the number of car days empty and loaded on the Frisco. This check developed that there was a total of 14,272 empty car miles, 405 car days empty, and 12,848 loaded car miles, and 53 car days loaded. We performed 1,424 miles excess empty haul and had the 50 cars empty on hand awaiting a load a total of 397 days on which we paid on the basis of $2.00 per day. The details are shown on pages 172 and 173 (Tr. 5493-5494).

On Cantaloupes the records on 10 cars were examined. They showed an empty car mileage of 3,594 miles and a loaded car mileage of 2,968 miles, empty car days awaiting load 150 car days; loaded 18. The expense as a result of the days on hand empty were very heavy considering a penalty of $2.00 per day. The details are shown on page 176. Potatoes produced on the Frisco are loaded in stock cars which must be cleaned and at the expense of the Frisco. There is also a long empty car haul and heavy detention. On page 175 the details of a check of ten cars is shown. Under the movement of car S. F. 47994 which was moved 937 miles empty, was retained on the Frisco 42 days before being loaded. Watermelons are loaded in stock cars which must be cleaned up and at the expense of the Frisco. The empty car detention is not as heavy as on potatoes. Note the detailed record on ten cars as shown on page 174 (Tr. 5494-9495).

[fol. 1111] The empty car mileage on strawberries and on cantaloupes is much greater than the loaded car mileage. Cantaloupes used M. D. T. equipment the same as peaches and strawberries. The same is true of early fall apples. I haven't figured out any percentage figures as to the proportion of this traffic that we originate and the expenses that we have enumerated which goes to Western Trunk Lines (Tr. 5495).

The year 1924 statistics show a very heavy movement of strawberries. That movement was into Western Trunk Line Territory to points like Chicago, the Twin Cities, Des Moines and so forth. I haven't any percentage figures I would like to submit. There is a heavy movement of zinc ore and concentrates from the Joplin, Mo. Pitcher, Okla., District to the Illinois smelters. On page 177 is shown a history of the rates and divisions on January 1, 1900, the

rate from the *H*oplin district to East St. Louis was 11½ cents. The Pitcher district at that time was not in existence as an ore producer. A rate of 14 cents was established on January 1, 1900 to Dupo, LaSalle and Peoria, Ill., based 2½ cents over the rate to East St. Louis. As the result of the C. B. & Q. agreeing to accept north of East St. Louis a division of 5 cents. The Frisco received 9 cents Joplin District to East St. Louis, average haul 351 miles, the present rate is 19 cents. The lines north of East St. Louis receive 6.3, the Frisco 12.7. Joint rates from points on the Miami Mineral Belt and Northeastern Oklahoma Railroads, which are short lines serving the Pitcher, Okla., field, are based 2½ cents over the rates from the Joplin District of 19 cents, making a rate of 21½ cents. This rate divides by allowing the short lines 5 cents beyond East St. Louis, 6.3 Frisco, the balance 10.2, out of which is paid the Mississippi River Transfer of 1.8 cents (Tr. 5495-5496).

[fol. 1112] The decrease in the Mississippi River bridge charge was brought about by the ten percent reduction. Rate of 17 cents from the Joplin District and 19½ from points on the short line to Danville, Ill., divides by allowing the C. & E. I. 5½ cents and the Frisco 11½; from the short line the C. & E. I. receives 5½ cents and the Frisco 9 and the M. M. B. or N. G. O. 5 cents; in either case, the Frisco pays the Mississippi River bridge transfer of 1.8. When we took off the 5½ cent increase the bridge charge was not reduced at the same time. It remained constant (Tr. 5497).

The division for the C. & E. I. above referred to was agreed to with that line in conference at the time the rate was established. The rates applicable to East St. Louis were extended to apply to Hillsboro, Ill., on July, 1913, and the C. & E. I. accepting a division of 2½ cents per hundred. The present rate is 15½ cents from Joplin District which divides C. & E. I. 3.1, Bridge Transfer 1.8, Frisco 10.6. From points on the short lines mentioned the present rate is 18 cents which divides by allowing the short lines 5, C. & E. I. 3.1, Frisco 8.1. Chicago rates and divisions are self explanatory as shown on page 177. The Northern Lines proportions were agreed to at the time the joint rates

were established and the level of the through rate was influenced by the proportion desired by our northern connections. Destination lines wanted these low rates established to their smelters in Illinois so they might be placed in competition with smelters in C. F. A. Territory as well as the smelters located in the Southwest. The Illinois Lines were in position to and do haul the outbound product from the Illinois smelters. The divisions shown as applicable via Kansas City were established several years later and were agreed to by the lines east of Kansas City, who were [fol. 1113] anxious to participate in the handling of the traffic via the Kansas City gateway in competition with other competitors via East St. Louis (Tr. 5497-5498).

On page 178 is shown the average ton mile earnings by route covering the movement from points on the N. E. & O. and the M. M. B. for the period November 1923 to October 1924 inclusive. These figures are based on Witness Sewell's Exhibit No. 99 corrected, introduced in Docket 16236 and 16238. The lines west of East St. Louis earn less than 4 mills per ton mile on this traffic to Danville and to LaSalle via the route that is indicated. The ore traffic is expensive to originate. The life of ore fields is difficult to determine. The Joplin District is not now a heavy producer. These are the present rates. Page 178 shows the weighted average return on a movement that the rates have not changed subsequent to the date of that movement. These are the rates from the short lines. It is those ton mile earnings of 3 mills and so forth to Danville and LaSalle that the Examiner has proposed to reduce. I don't think that these earnings of 3 and 4 mills per ton mile are enough. In my opinion they are not enough no matter what we are hauling (Tr. 5498-5499).

The Frisco during the past 25 years has spent large sums in the Joplin District for the construction of track for ore loading. A large number of these tracks were subsequently taken up. On pages 182 to 186 inclusive I have listed specific cases, the total mileage abandoned and taken up was 34.76 miles. The Frisco production at present is from points on the Miami Mineral Belt and the Northeastern Oklahoma Railroad. The Frisco connects with the former at Quapaw and Baxter Springs, Kans., and with

the latter at Miami, Oklahoma, and Columbus, Kansas. The M. K. T. connecting with the N. E. O. at Columbus, Kansas. To supply these connections with equipment the Frisco hauls empty cars from a minimum of 400 to a maxi- [fol. 1114] mum of 407 miles. The average on 100 cars delivered to the N. E. O. was 142.37 miles. Details are shown on page 188. While to points on the Miami Mineral Belt the average empty haul on the Frisco was 102.76 miles; details shown on page 191. The time consumed on the short line loading of the empty car and return load to the Frisco was 3.53 and 3.05 days respectively. The short line must equip the cars with grain doors which is expensive. Similar data covering empty cars delivered the N. E. O. by the M. K. T. is shown on page 194. This date was taken from an exhibit submitted in Docket 16236 and 16238, Witness Stanage, Exhibit 62, and the Witness Allen's Exhibit 92 (Tr. 5499-5500).

I am attempting to show the Commission the expense and trouble that is incident to originating this traffic from the Southwest that moves to Western Trunk Lines. It is very expensive to originate because of the different features I have detailed. On the zincs via the short lines we have to furnish the cars because they have no equipment. The allowance to the short lines as shown on page 177 comes out of our proportion. I mean by that none of the allowance is received or has in the past been received from the Western Trunk Lines. The increase in 1923 that we allowed to the short lines was because of the similar allowance, that is the present division by another gateway, Columbus, Kansas. In other words the Northeast Oklahoma extended its rails to Columbus, Kansas, in connection with the M. K. T. and the M. K. T. previous to that time has received the ore in connection with the Kansas Oklahoma & Gulf and they had to pay to get it to their rails a division of 4.9, so when the short line extended its line to a connection with the M. K. T. at Columbus, the M. K. T. gave the short line direct 5 cents per 100 pounds. The [fol. 1115] action of the M. K. T. compelled us to give the short lines 5 cents if we wanted to get the traffic (Tr. 5500-5501).

On canned goods from Iowa producing points to points in Southwestern Missouri the Western Trunk Lines receive

a reasonable division for their service to Kansas City. On pages 195 to 198 inclusive are shown present rates and divisions on canned goods carload from representative points in Iowa to points in Southwest Missouri. For example the through rate from Marshalltown, Iowa, to Joplin is 43 cents. It divides 22.3 to Kansas City, distance 278 miles, beyond Kansas City 20.2, distance 162 miles. The local rate Marshalltown, Iowa, to Kansas City is 32 cents, C. G. W. I. C. C. 5172. The local rate Kansas City to Joplin 27½ cents. On a rate pro-rate the 43 cent rate would divide 53.7 per cent north of Kansas City or 23 cents; south of Kansas City 20 cents. From all Iowa canning points on the C. R. I. & P. there is a rate of 25½ cents per hundred to Kansas City as published in C. R. I. & P., I. C. C. 11426. From Grinnell, Iowa, to Springfield, Mo., the rate on canned goods carload is 36 cents and divides via Kansas City by allowing lines north 50 per cent or 18 cents. Local rate Grinnell, Iowa, to Kansas City 328 miles, is 32 cents; C. R. I. & P., I. C. C. 11426. Rate Kansas City to Springfield 27½ cents, distance 191 miles. Applying rate prorate the lines north of Kansas City would earn 53.7 per cent or 19.3; south of Kansas City 16.7; to points south of Springfield, Mo., such as West Plains, Mo., the through rates are based on a differential of 11½ cents higher than the rate to Springfield, Mo. The difference in the rates Kansas City to West Plains over Kansas City to Springfield rates is 14 cents. In division of these joint rates the lines north of Kansas City received the Springfield, Mo., revenue. The Western Trunk Lines on northbound traffic to points taking a differential [fol. 1116] over the Chicago rate restrict the lines south of Kansas City to Chicago revenue (Tr. 5501-5502).

Page 199 shows present rates and divisions on cement plaster carloads from Acme, Texas, to Western Trunk Line Territory. Rates on cement plaster from Acme, Texas, to Western Trunk Line Territory were first established August 19, 1898 on same basis that was in effect from Quanah, Texas, as per Supplement 1 to Agent Leland's I. C. C. 79. On December 23, 1913 Supplement & Leland's I. C. C. 1997, the through rate of 23 cents Acme, Texas, to Chicago was cancelled and in lieu thereof the East St. Louis combination of 20 cents per 100 was established based 15 cents Acme,

Texas, to East St. Louis, minimum 60,000 pounds, plus 5 cents East St. Louis to Chicago, Minimum 40,000 pounds, the latter rate being published in Wabash I. C. C. No. 3070. This rate divided as based, namely the carriers to East St. Louis 15 cents and the line north their local of 5 cents. Effective October 25, 1916, in Supplement 4 Leland's I. C. C. 1146, the rate to Chicago was increased 5 per cent, making the rate East St. Louis to Chicago 5.3 and accordingly the combination rate published by Agent Leland was advanced from 20 to 20.3 and the lines north allowed three tenths of a cent increase. Effective November 25, 1919, Leland's Tariff 1324 the rate beyond East St. Louis was increased from 5.3 to 5.5. Agent Leland accordingly revised the combination rate to 20.5 the lines north of East St. Louis being allowed in division 5.5; in other words the factor they contributed in constructing the through rate (Tr. 5503).

Effective August 26, 1920, the rate was advanced 35 per cent and on July 1, 1922, reduced 10 per cent, so that today the rate is 27½ cents, based 20.5 minimum 60,000 pounds Acme, Texas, to East St. Louis plus 7 cents minimum 40,000 pounds beyond. The Southwestern carriers are earning less [fol. 1117] than 5 mills per ton mile to East St. Louis. The low rate has something to do with it. Our division is low too. I should say the average loading would run about 35 tons. The present rates and divisions are shown on page 199 which shows that the lines north of East St. Louis receive 7.2 although the factor they contributed in constructing the 27½ cent rate was only 7 cents. That difference comes about because of the disposition of fractions (Tr. 5504).

The rate was constructed by compounding the two factors and then is divided as made. Well then the subsequent advances and reductions advancing the divisions along with the rates, the disposition of fractions, threw two tenths of a cent more to the northern factor than on the southern factor. As the division now stands it is practically a rate prorate. It moves quite heavily. On page 200 is my information dealing with rates from Southerd and Eldorado, Okla. which are cement plaster producing points. The

same information suffices for this exhibit. I want to make one correction: Under Present Divisions shown at the right of the sheet, under St. L. S. F. Railway, the very first item to the right of 589 miles, the division for the Frisco, is shown as 17 cents. That should read 16.7, and the earnings per ton per mile should read .0057. The rate from Southerd and El Dorado are made with relation to the rates from Acme, Texas. The rates, however, from Southerd and Eldorado are not uniform via all of the Western Trunk Line routes due in part to the fourth section feature not having been checked out, some of the lines do not meet the going basis (Tr. 5505).

On page 201 is shown the present rates and divisions on lime, carloads, from Springdale, Mo., which is representative of our Southwestern Missouri lime shipping points and Johnsons, Ark., a representative Arkansas lime shipping point. Other lime kilns are located on the Missouri Pacific [fol. 1118] also in the district at Springdale and at Ruddles and Limedale, Ark. The joint rates are published in individual issues of the Southwestern Lines and were established a great many years ago to enable the line producers in the Southwest to reach the northern market in competition with the producers in Western Trunk Line Territory located at Hannibal, Mo. and other points. The question of divisions via Kansas City was before the Western Trunk Lines during 1916 and effective June 1, 1916, Agent Boyd incorporated in his division sheet 315-A Supplement 51 a proportional of 6 cents to lines south of Kansas City on lime from Missouri kilns and 8 cents south of Kansas City when from Arkansas kilns; these figures gave the result of an agreement between interested connections. This resulted in an advance in proportions to the lines north of Kansas City as the Frisco at that time earned from Springfield to Kansas City 8 cents west of Chicago; 6.8 to Peoria and Springfield, Ill.; and 9 cents to St. Paul. The distance Springfield, Mo. to Kansas City 191 miles and from Johnsons, Ark. 266 miles; a manimum car of 15 tons, the minimum being 30,000 pounds, yields the Frisco $18.00 and $24.00 per car respectively (Tr. 5505-5506).

The rates subsequently established have taken into account the above proportions for the Southwestern Lines.

The balance accrues north or east of Kansas City. The subdivisions shown on page 201 reflect the various rate changes effective since 1916. On page 202 have shown the present rates and divisions on lime from St. Genevieve and Mosher, Mo., to Illinois and Iowa points. The rates are made with relation to the rates as published from Hannibal, Mo., a competing lime shipping point. From Illinois points the Commission approved a differential of 1 cent over Hannibal. Lower rates were necessary. Otherwise Missouri [fol. 1119] producers could not reach the northern market in competition. The first divisions were worked out in conference with our northern connections. On Chicago traffic, for example, the Frisco earned 3.3 or $9.90 per car for a 66 mile haul from St. Genevieve, Mo. to St. Louis while on traffic from Mosher, Mo. it earned $7.20 per car. The Western Trunk Lines have not heretofore consented for the application of a mileage prorate in subdividing joint rates with the Southwestern Lines. During 1925 the Divisions Committee of the Southwestern Lines established numerous divisions with the Western Trunk Lines, none of which were on a mileage prorate basis. For example on fresh meat West Fargo, North Dakota, to Oklahoma City a rate of $1.22 was divided 63 cents for the lines south of Kansas City and 59 cents for the lines north of Kansas City. Based on application of a mileage prorate the lines south of Kansas City would have earned 30½ per cent or 37.2 cents. The northern lines agreed to allow them 51.6 per cent or 63 cents, or 170 per cent of a mileage prorate (Tr. 5506-5507).

Other examples are shown in detail 203. The Southwestern Lines do not in subdividing the joint proportions north of Southwestern Junctions among themselves observe mileage prorate basis. Note examples shown on page 204. For instance, second item, covering car of staves Truman, Ark. to Dyersville, Iowa, via Frisco to St. Louis, Wabash to Des Moines, C. G. W. to destination. The revenue north of St. Louis was divided 50 per cent Wabash, 50 per cent C. G. W. A mileage prorate would allow the Wabash 66 per cent and the C. G. W. 34 per cent. Other illustrations are shown on this sheet. I do not know whether it is correct as I suggested that fifty fifty division of the reve-

nue north and to Dyersville is applicable to an entire destination group that extends as far up north as Minneapolis. I have not looked into that feature. I merely showed that [fol. 1120] actually applies. It is possible that if I had taken a shipment to Minneapolis I might have had a different situation (Tr. 5508).

Witness Buhrle on Exhibit A-60 showed a recapitulation of carload freight via East St. Louis for the month of June, 1924. I had this data reworked showing the recapitulation of carload freight moving via East St. Louis for the month of June, 1924. I have shown separately a deduction via the Mississippi River bridge transfer out of the revenue shown as allowed south of East St. Louis, Illinois. On through carload freight we used an average bridge transfer charge of 2.2 account statements not indicating commodities. The transfer varies according to each commodity. 2.2 is a reprsentative average. Note the revenue per ton mile south of East St. Louis of 9.6 versus 8.89 mills north compares with 10.5 mills south shown on Witness Buhrle's Exhibit A-60. The deduction for the Mississippi River bridge toll comes out of the Southwestern revenue. I haven't attempted, however, to make any deduction for absorptions north. I don't know of any bridge tolls the Western Trunk Lines pay on this traffic at St. Louis. I don't think the switching absorptions at Chicago and things of that sort are competent (Tr. 5508-5509-5510).

On page 206 of Witness Stange's Exhibit A-199 is shown a recapitulation for the month of October, 1924, on traffic handled by the Frisco, showing tons, tons one mile, revenue in dollars, average haul, average revenue per ton for Western Trunk Lines, also average revenue for the Frisco after deducting actual Mississippi River transfer charges paid by the Frisco. It shows that on southbound traffic via East St. Louis the Western Trunk Lines ran north of East St. Louis 10.5 mills, while the Frisco earned south of St. Louis 13.21 mills. On northbound traffic other than lumber from off short line connections or non-respondent, lines, the *the* [fol. 1121] Western Trunk Lines earned north of East St. Louis 8.55 mills while the Frisco earned 8.66 mills. On lumber off short line connections the Western Trunk Lines earned from East St. Louis 8.88 mills while the Frisco earned 6.77 mills. The northbound lumber from non-respondent lines the Western Trunk Lines earned north of

East St. Louis 8.35 and the Frisco earned 5.51 mills. The Frisco was an intermediate carrier (Tr. 5511).

On lumber from points on the Rock Island which the Frisco handled from Bridge Junction, Arkansas, opposite Memphis, Tennessee, to East St. Louis, the Western Trunk Lines earned north 9.79 mills while the Frisco earned 6.13 mills. On all traffic handled by the Frisco to the St. Louis Gateway for October, 1924, northbound and southbound except lumber from off the C., R. I. & P., the Western Trunk Lines earned 9.07 mills, the Frisco earned 10.49 mills. That includes traffic to and from Oklahoma. That is all the traffic we handle. Most of the traffic handled by the Frisco to and from Oklahoma moves through the East St. Louis, Illinois, gateway. I have shown here the net revenue of the Frisco and the gross revenue north. We showed the revnue the Frisco earned minus the Mississippi River Bridge tolls St. Louis-East St. Louis for the Frisco and then the revenue for the Western Trunk Lines is the gross amount they earned north of St. Louis. In the case of lumber off our tap line I have shown the Frisco earnings only and in case of lumber from non-respondent lines I have shown the gross amount and gotten our ton mile earnings by figuring that amount (Tr. 5512-5513).

Page 207 is a statement showing the division sheets issued by the Frisco which are currently in effect. Witness Buhrle in Exhibit A-8 listed the division sheets claimed to be in effect by Western Trunk Lines. We checked over the [fol. 1122] list of those and this is a correction of data which he has listed. In other words we have shown on this page the current sheet of the respective division sheets. We also want to place in the Commission's files a copy of the current issues. In other words I am bringing up to date the data furnished by Witness Buhrle. For example the very first item he showed division basis 713-A as being in effect, the current issue is 713-B. I am introducing a copy of all of the missing sheets to complete the record. With these additions the record in that respect will be complete (Tr. 5513).

On pages 208 and 209 are shown the list of cities of over ten thousand inhabitants along the Frisco in Arkansas, Oklahoma and Missouri together with similar information as to the cities on the Wabash, C. & A., C. G. W., C., M. & St. P. in the States of Missouri, Illinois, Iowa, Minnesota

and Wisconsin. The methods used in constructing joint through rates on outbound commodities which I have described are still being employed. I could detail into the record numerous instances but I have in a general way described the basis and covered the principal moving commodities. It costs more to originate traffic than it does to deliver traffic. The initial carrier must provide the necessary equipment. In a great many cases the equipment must be hauled empty a long distance. The initial carrier must where necessary prepare the equipment for the character of the load. By that I refer to the bedding of livestock cars, the repairing of box cars for grain loading, where they need some minor repairs, also furnishing of grain doors. The initial carrier must also assume the per diem expense when the cars are on hand awaiting loading. The latter is especially true of the movement of roofing commodities such as lumber, cement, plaster, drains, et cetera. For example in the current season we must accumulate a great quantity of cars to take care of the prospective move-[fol. 1123] ment and while those are on hand we must pay the per diem expense (Tr. 5514).

In handling or originating oil we have to provide expensive storage facilities, empty tank cars. As the tank cars are required by the refineries it is necessary for the initial line to switch them out as desired. By that I mean when they reach the refinery they are placed on the loading track but when the refinery is ready to load a car they specify the particular car desired. For instance they need a clean car for gasoline, what they term a dirty car for crude or fuel oil. Then they also have special tank cars with special insulation for very volatile oils such as casing head gasoline, naptha and so forth, depending upon the gravity, and the cars of that kind must when desired be switched out. The initial line is also put to the expense of weighing the traffic. In originating certain classes of traffic the initial carrier has additional expense incident to the movement of the inbound material; I refer to the concentration of eggs, live poultry, dressed poultry et cetera. The carrier originating this traffic will haul in twenty or more lots of eggs or poultry inbound to one car outbound, refunding the charges on the inbound movement down to a net basis upon consideration of delivery to it of an outbound carload movement. That expense all rests with the initial carrier. In other

words the refunds I mentioned are not participated in by the connections of the individual lines. I am speaking now of all lines in the Southwest (Tr. 5515).

There is also great expense in connection with the originating of forest products traffic. I refer to the movement into the sawmill of logs on low inbound rates. It takes from four to six cars of logs inbound to one car of manufactured [fol. 1124] product outbound and all the Southwestern Lines have in effect very low rates for the inbound movement of this raw material. There is another feature which the Commission should take into consideration in connection with the question of division and that is the element of competition. Especially is that true between large cities where a great many carriers converge, the rails of a great many carriers converge and where there is a large and constant volume of traffic received from connecting lines, particularly in train load quantities. We have that condition between Kansas City and Chicago, and between East St. Louis and Chicago. It also exists at numerous points in the Southwest. For example the traffic between Memphis and New Orleans where there are a great many routes. There is also the question of competition between gateways, that is the Frisco in originating traffic in the territory west of Springfield has the choice of either the Kansas City gateway or the East St. Louis gateway, the latter giving it the longest haul. On traffic originating in southeast Missouri or northeastern Arkansas, the Frisco has the choice of either the Kansas City gateway, the Thebes gateway or the East St. Louis gateway. And then there is a possibility of using the Memphis gateway and the route via St. Genevieve, Missouri, in connection with the Missouri and Illinois (Tr. 5516).

The competition between gateways is necessarily very keen. We have one important situation in the Southwest, for example, on the traffic moving to New Orleans we have the choice of the routes via Memphis in connection with the Illinois Central or through New Albany, Mississippi, and the G. N. & N., or Tupelo, Miss., and the G. M. & O. and those three routes are in competition with the routes to New Orleans via Texas junctions with such lines as the T. & P. and the Southern Pacific; also the route [fol. 1125] of the Frisco through Hope, Arkansas, in connection with the L. & A. and the Missouri Pacific

on New Orleans traffic. The Frisco in handling traffic from Arkansas points on the Rock Island with whom it connects at Bridge Junction, Ark., opposite Memphis has to meet the competition of the Illinois Central via Memphis, the latter being in position to handle the traffic north from Memphis to Illinois points and beyond. The Frisco in meeting this competition had to arrange satisfactory divisions with its connections either via Thebes or East St. Louis. Now this competition that I have detailed is representing the situation throughout the entire Southwest which must be taken into consideration in fixing the divisions (Tr. 5517).

Considering the entire Southwest the traffic is heavier northbound from 4 to 7 to 1. The northbound traffic would be originated by the Southwestern lines. Via the Frisco just a very small amount of transcontinental traffic passes through the Southwest. We participate to only a nominal degree in transcontinental traffic moving through our territory (Tr. 5517-5518).

I am reading from page 10 of the 19th annual report of the C. & A. Railroad to its stockholders for the year ending December 31, 1924. "The unfavorable results of 1924 in operation of your property are almost wholly due to the conditions prevailing in the coal industry." I am reading from the annual report of the Minneapolis & St. Louis Railroad Company to its stockholders for the year ending December 31, 1924: "The year 1924 was a year of business depression in the territory served by the Minneapolis & St. Louis Railroad Company and in addition to the decreased tonnage resulting from this general condition, the corn crop in the entire territory was very much below normal both in [fol. 1126] quantity and quality, which also had an adverse effect upon the revenue tonnage" (Tr. 5518).

The traffic handled by the Western Trunk Lines generally originates or terminates on the carrier hauling the traffic to or from the point of interchange with the Southwestern Lines. The proportion of their joint hauls to their single line hauls is very small. The opposite is true of the Southwestern Lines. A very large proportion of their joint traffic originates or terminates on lines which do not serve the committee gateways such as Kansas City, East St. Louis or Thebes. With the Frisco this class of traffic is substantial. In other words in handling business for the

Western Trunk Line Territory, the St. Paul for instance will originate the traffic and handle it to Kansas City and deliver it to the Frisco. Other than the traffic destined to Frisco points will find a destination on the rails of our connections and to reach some of them we have to use two intermediate lines (Tr. 5519).

There is a very substantial portion of the traffic in connection with which the divisions south of the gateway are divided *are divided* frequently between two groups of carriers because of the feature I have mentioned and the fact that there are a greater number of lines in the Southwest than there are in Western Trunk Line Territory and there is such a large proportion of the lines in the Southwestern Territory which do not reach the committee gateways with their own rails. That is a very important fact because it is more expensive to handle traffic over two or three lines from a given point of origin to an interchange point such as Kansas City than for one line to handle that traffic (Tr. 5519-5520).

The great bulk of the traffic we give to the Western Trunk Lines finds destination on the line to whom we deliver the freight at a point like Kansas City. The traffic we handle [fol. 1127] is divided into two classes, traffic we terminate and traffic we deliver to a connection for destination on that line or on a connecting line beyond the line to whom we deliver the traffic, and of the total traffic we handle, the connecting line traffic runs to a very substantial portion. As to that traffic the Frisco serves merely as an intermediate carrier whereas the Western Trunk Lines either originate or deliver the traffic (Tr. 5520).

I don't know what Mr. Dana had in mind when he said after we reach 250 miles there is no difference in the cost of handling traffic. He was dealing with hauls via one line and I am dealing with hauls via two lines (Tr. 5521).

Cross-examination:

I don't know what proportion of the Alton tonnage in 1924 was coal. It was a substantial proportion but I don't know the volume. The Frisco Railroad does not have any rails to Thebes, Ill. It ends at Chaffee. The Frisco joins in through rates Thebes to Chicago, I am pretty sure. I mean by that that some of the carriers are commodity car-

riers and the Frisco is shown as a participating carrier but not in the case of the C. & E. I. (Tr. 5521).

In the instance where the Frisco hauls the traffic to St. Louis and allows the line north of East St. Louis 65 per cent of the rate from Thebes, the Frisco is retaining 35 per cent of the Thebes rate. We are receiving south of East St. Louis for our haul via St. Louis to Southeast Missouri, the identical revenue which the line delivering this traffic to us allows to our competitors the Cotton Belt and the Missouri Pacific. It is true that the Frisco having no rails to Thebes secures 35 per cent west of East St. Louis on the Thebes rate. Of course the traffic in that event don't move through Thebes. We will receive the traffic at East St. Louis in competition with the Cotton Belt and the Missouri [fol. 1128] Pacific and handle it to destination via St. Louis through Chaffee. Our mileage from St. Louis to Chaffee is 144 miles (Tr. 5522).

Attorney Towner here questioned the correctness of the Witness' Statement concerning the case which he had said was a division case between the Frisco and the C. & E. I., saying that the case did not cover the question in divisions at all, but later withdrew the question and let the statement of the witness stand (Tr. 5523).

As to the existence of an agreement between the Frisco and the Western Trunk Lines with respect to the divisions on Southeastern Missouri traffic the basis currently in effect has been in effect ever since joint rates were established in 1909 and I don't know that I could refer you to any written agreement but we merely divide the rates as based and except for the Ex Parte 74 advance of the proportional rate from Chicago to Thebes 40 per cent, while the factor remains on the basis of the 35 per cent increase over the August 25, 1920, figure, the situation would be the same today as it was on August 25, 1920. I mean by that that at that time we used as a division sheet the tariff which named the proportional rates from Chicago to Thebes, Agent Boyd's 506 Series. Now that sheet today because of carrying the 40 per cent increase instead of 35 makes it necessary for us to use the former sheet. In other words the tariff uses as a division sheet the tariff which is not now in effect. There has been discussion with reference to putting divisions in a division sheet so it will be fully understood by all concerned

and we won't have to use this old tariff by Agent Boyd, effective August 25, 1920 increased 35 per cent (Tr. 5523-5524).

R. C. TROVILLION was thereupon called as a witness and testified as follows:

[fol. 1129] Direct examination:

I am General Freight Agent of the M. K. T. Railroad Company and my headquarters are at St. Louis. I have had some sixteen years experience with the M. K. T. in various capacities in the Traffic Department. I have made an investigation of the divisions in controversy in this case so far as the M. K. T. Lines are concerned and in part in connection with the general situation existing in the Southwest. I consider that I am thoroughly familiar with the issues involved (Tr. 5524-5525).

In considering divisions between Oklahoma and Texas on the one hand and Western Trunk Line Territory on the other there are several subjects of special interest and importance which present themselves for consideration and analysis. First is the doubtful value of rate prorate and mileage prorate in determining the proper divisions especially on traffic via Missouri River Crossings. Many commodities that move on comparatively low rates in the Southwest move on fourth class rates in Western Trunk Line Territory. So that comparisons based on the locals to and from the Missouri River in many instances have little value. The second is that the preponderance of the carload traffic is northbound. The third is that the movement of merchandise as less carload freight is almost entirely southbound and represents a good percentage of the business that divides on merchandise per cent. The handling of this traffic in solid cars by the originating lines and the necessity for the traffic to be distributed and redistributed by the lines serving the Southwest presents another reason why hard and fast rules of distance and rate prorates are not proper for fixing divisions on such traffic. The fourth is the consideration of the amount of business which originates or is destined beyond such lines as the M. [fol. 1130] K. T., Kansas City Southern and Frisco in Oklahoma and Texas and the earnings of the M. K. T., K. C. S.

or Frisco as pass over lines. The fifth is consideration of the very substantial amount of traffic delivered to and received from connections in Kansas City which originates or is destined C. F. A. and Trunk Line Territory, on which the Western Trunk Lines compile their revenue on this overhead traffic (Tr. 5525-5526).

My testimony has been divided as nearly as possible so as to separate Oklahoma from Texas although the two are very closely related as regards moving commodities and general conditions. The Oklahoma feature of the case presents a somewhat different situation and we think it important to explain our position as to those divisions. Following several conferences with the Western Trunk Lines as to divisions in the Southwest at which conferences no definite proposal was submitted by those lines, announcement was made by the Western Trunk Lines that effective July 1, 1925, the Santa Fe and Rock Island had agreed that on business to and from Oklahoma then dividing on merchandise per cent through Kansas City to and from St. Louis, Peoria and Chicago, an increase of 14 cents in those divisions would be accorded. The Missouri Pacific later agreed to the same increases. The two Oklahoma Lines that did at that time agree to it have their own rails between Kansas City and Chicago and it will be readily seen that their position was entirely different from lines terminating at the Missouri River such as the Katy, Frisco and K. C. S. While the Santa Fe and Rock Island might turn over a certain amount of business at Kansas City to the C., M. & St. P., C. G. W., C. & A., Wabash or C., B. & Q. and accord them the increase east of the River, the deliveries of the Katy, Frisco and K. C. A. to the Santa Fe and Rock Island [fol. 1131] at Kansas City are very heavy. Upon this traffic interchanged between the M. K. T., Frisco and K. C. S. and the Santa Fe and Rock Island in both directions, the latter two roads would be enabled in part at least to recoup their loss on traffic interchanged at this gateway with other Western Trunk Lines. It is obvious however, that no such result would follow as to the M. K. T., Frisco and K. C. S. since their rails terminate at Kansas City. The particularly unsatisfactory feature of the Oklahoma compromise was that it dealt only with merchandise per cent upon which basis the majority of the southbound business is divided (Tr. 5526-5527).

It did not deal with the special divisions on petroleum oil, cottonseed cake, grain, livestock, et cetera, which moves northbound. In other words the originating lines proposed to increase their revenue on southbound business but were careful to propose no increase to the originating lines on traffic from the Southwest and destined north. This business which I shall show, constitutes by far the greater volume of the traffic interchanged. Moreover the 14 per cent increase agreed to by the Santa Fe, Rock Island and the Missouri Pacific only covered the traffic originating at or destined to points on their rails in Oklahoma while this proceeding involves all traffic and all divisions. There is a heavy movement of oil and other commodities originating on short line connections in the Southwest (Tr. 5527-5528).

The statement afterward described by the witness was thereupon offered in evidence as Exhibit A-201.

(The statement was received in evidence as Exhibit A-201.)

[fol. 1132] This exhibit shows deliveries of carload traffic in Kansas City and St. Louis by the M. K. T. for the years 1923, 1924 and for the first eleven months of 1925, also receipts from such lines. Page 1 shows deliveries and receipts at Kansas City and page 2 at St. Louis. It shows that the deliveries were in the ratio of approximately 3 to 1 at Kansas City and approximately 2 to 1 at St. Louis with the I. C. and C. & E. I. It is offered to indicate that the preponderance of the traffic is northbound and with the thought in mind that proper weight should be given to the fact that deliveries of the Southwestern Lines to the Western Trunk Lines far exceed the deliveries in the reverse direction. The figures were taken from the actual interchange report prepared by our agents at Kansas City and St. Louis. The totals are not shown on the exhibit but a computation from page 1 shows total deliveries for 1924 of 47,662 cars as compared with the receipts of 16,534 cars. For the eleven months of 1925 shown, deliveries 44,545, receipts 16,734. The receipts from the Santa Fe at Kansas City for 1925 are explained by the fact that we received from that line a substantial volume of oil secured on our solicitation and moving from refineries on their line in Kansas and Oklahoma handling business between Kansas City and St. Louis (Tr. 5528-5529).

A statement afterward described by the witness was thereupon offered in evidence as Exhibit A-202.

(The statement was received in evidence as Exhibit A-202.)

[fol. 1133] The Witness: This eight page exhibit shows the movement of various commodities for the first six months of 1925 delivered by the M. K. T. to Western Trunk Line connections at Kansas City separating Texas and Oklahoma and other on the one hand, and the Western Trunk Lines and other than Western Trunk Line on the other hand. Receipts are also shown in a similar manner. Page 1 shows deliveries to and receipts from the Santa Fe, page 2 C. & A, page 3 C. B. & Q., page 4 C. G. W., page 5 C. M. & St. P., page 6 C. R. I. & P., page 7 Wabash. Page 8 is a grand recapitulation carried forward from the bottom of each page as the arrangement of the separate pages covering the recapitulation is not clear. The statement was taken from the actual interchange records of the Agent at Kansas City. This will give the Examiner an idea of the traffic which is moving and the volume of the oil and other traffic upon which we desire increased divisions. The recapitulation shows that out of a total of $21,963 cars delivered to the Western Trunk Lines at Kansas City, 14,016 cars or about two-thirds went to Western Trunk Line Territory indicating the importance of our Western Trunk Line business. It further shows total deliveries to us by the Western Trunk Lines of 7,574 cars, a ratio of almost exactly three to one in our favor. The statement also shows that approximately half of the business delivered to us by the Western Trunk Lines originates in Western Trunk Line Territory indicating further that there is a heavy overhead movement from the east which moves from Chicago and Chicago junctions handled to Kansas City for delivery to us. It shows especially that the M. K. T. delivered for this six months period destined Western Trunk Line Territory 567 cars of oil from Texas points and 7,507 cars of oil from Oklahoma points, a total of 8,074 cars (Tr. 5529-5530).

[fol. 1134] It also shows the large movement of packing house products and fresh meat moving to other than Western Trunk Line Territory from Oklahoma and Texas deliv-

ered to the C. & A. indicating that about 30 per cent of this traffic is destined to eastern points. There is also shown a substantial movement of petroleum oils to point beyond Western Trunk Line Territory, a good portion of which went east of the Indiana-Illinois state line, to which destination the lines between Kansas City and Chicago or interior Illinois junctions generally receive more than when destined to Chicago or Chicago rate points. The total fresh meat, products destined Western Trunk Line Territory was 9,685 cars, 8,074 cars of oil and 1,611 cars of meat, or 69 per cent of the totals of everything. The statement also shows that from Oklahoma to Western Trunk Line Territory for this six months period we delivered the seven Western Trunk Lines shown 7,507 of petroleum and its products out of a total of 8,460 cars of all traffic. In other words 88.6 per cent of our traffic originated in Oklahoma and destined to Western Trunk Lines consisted of oil. The Texas oil was 567 cars out of a total of 3547 cars destined Western Trunk Line Territory, or 16 per cent. Of the deliveries to us at Kansas City from Western Trunk Lines out of 7774 cars a total of 3712 or almost exactly 50 per cent originated in Western Trunk Line Territory. Of the remaining 50 per cent a substantial portion originated east of Chicago where the lines to Kansas City performed over half the service (Tr. 5530-5531).

The statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-203.

(The statement referred to was received in evidence as Exhibit A-203.)

[fol. 1135] The Witness: This is a three page exhibit, the first page of which shows the total number of merchandise cars operated out of St. Louis by months for the first eleven months of 1925 and 1924. At the time the statement was made, December, 1925, was not available so that December, 1924, was also omitted. The second page shows similar information to Kansas City and on page 3 is shown the Kansas City refrigerators operated. The flow of merchandise is southbound and the most expensive part of the handling falls on us. Therefore the manner of handling alone does not justify divisions fixed by hard and fast rules of rate prorate, mileage prorate and so forth. Cars move

solid from Chicago, Milwaukee, etc. to Kansas City and St. Louis and in numerous instances the entire car is delivered to us at Kansas City or St. Louis for handling and assembling over our platform. We operate 46 daily scheduled cars out of St. Louis and 36 from Kansas City as well as 8 additional scheduled refrigerator cars out of Kansas City (Tr. 5532).

I have made no investigation of the cost of the Western Trunk Line in gathering the traffic involved, handling it through their freight houses and taking car- of absorptions in towns like Chicago and Milwaukee. A refrigerator car carried a large amount of business received from connections such as cheese from Wisconsin, etc. We have only two scheduled merchandise cars that run through from their points to points on our line and of course these break bulk and are rehandled on our lines (Tr. 5533).

The statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-204.

(The statement referred to was received in evidence as Exhibit A-204.)

[fol. 1136] The Witness: This exhibit shows merchandise delivered to us by the various Western Trunk Lines at Kansas City and St. Louis. It indicates that the amount is substantial. The expense of handling and the divisions on this business are highly important to us. Merchandise represents approximately 16 per cent of our revenue and with the exception of oil, no single class of traffic gives as great a proportion of our revenue. Page 1 of this exhibit shows receipts from the Western Trunk Lines at Kansas City and page 2 at St. Louis (Tr. 5533).

The statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-205.

(The statement referred to by the witness was thereupon received in evidence as Exhibit A-205.)

[fol. 1137] The Witness: Exhibit A-205 consists of three pages and shows divisions received on the first five classes by the Western Trunk Lines from Chicago to Kansas City as compared with what the lines from Chicago to Kansas City earned on the through business from Detroit and other C. F. A. points to Oklahoma as pass over lines. It shows

that in both cases the Western Trunk Lines receive more as pass over lines for the haul Chicago to Kansas City than when from Chicago Territory proper. The particular object of the exhibit is to show that the per cents applicable from Chicago to Oklahoma via Kansas City do not apply on all traffic which the Western Trunk Lines haul from Chicago to Kansas City and deliver to the Southwestern Lines because there is a substantial amount of traffic moving from Chicago to Kansas City which originates east of Chicago and that on this traffic divisions are compounded on the Mississippi River giving the Western Trunk Lines more revenue generally for their haul than on traffic originating in Chicago Territory. Naturally if the divisions on the Mississippi River Oklahoma traffic were increased in this proceeding the revenues on this particular traffic would be increased. The points of origin and destination selected are we believe representative. The first page illustrates the revenue accruing on Muskogee business and shows that with the exception of Pittsburg, the overhead revenue is in excess of the earnings on Chicago proper. The same general situation is shown to Tulsa on page 2. To Oklahoma City on page 3 the revenue in every case, overhead, exceeds the revenue of the Western Trunk Lines on Chicago Territory proper (Tr. 5334-5335).

I mentioned in explaining the exhibits that at Pittsburg the Western Trunk Lines between Chicago and Kansas City do not receive as much on the overhead traffic as they do on local traffic. I think Cleveland on page 2 from Chi-
[fol. 1138] cago to Kansas City on first class Western Trunk Lines receive 88.4 against 90.2. That is less. The second class is less, the third class is more, and the fourth and fifth class more. I think it runs that way pretty generally (Tr. 5535).

The statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-206.

(The statement referred to was thereupon received in evidence as Exhibit A-206.)

[fol. 1139] The Witness: This exhibit consists of three pages and compares the revenue that the lines from Chicago to East St. Louis receive on the first five classes on

business destined Texas and Oklahoma and compared with what the same lines accept on business from the same points destined East St. Louis and on shipments from East St. Louis destined New ork. The first four blocks on page 1 show the earnings from Chicago and East St. Louis destined Texas and to representative Oklahoma points. The last block on page 1 and the illustrations on page 2 show what the Western Trunk Lines accept for the same service on C. F. A. and Trunk Line business (Tr. 5536).

The statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-207.

(The statement referred to was thereupon received in evidence as Exhibit A-207.)

[fol. 1140] The Witness: This exhibit shows the original mid-Continent Group of petroleum oil refining points taking the Tulsa rate known as Group 3, and in effect in the mid-Continent Oil Case Docket 6129 and related cases 36 I. C. C. 114, which was decided, which was the group existing at the time the present figures on oil from Oklahoma to Western Trunk Line Territory were made. At the present time we are receiving considerably less than merchandise per cent on oil from Oklahoma to Western Trunk Line Territory via Kansas City (Tr. 5536).

Prior to October 1st, 1916, the merchandise per cents applied. At that time a basis was put into effect which has proved most unsatisfactory to us. The oil movement has grown rapidly since the divisions were arranged as illustrated by the fact that during the year 1924 petroleum oil exclusive of crude, represented 21.93 of our tonnage, 19.13 per cent of our revenue and we hauled 94,280 cars. For the first ten months of 1925 it represented 24.3 per cent of our tonnage, 21.44 per cent of our revenue, and we hauled 90,353 cars. The present oil division via Kansas City came about in much the same way as the recent Oklahoma compromise on merchandise divisions was effected. At a meeting of Western Trunk Line executives in January, 1916, shortly following the decision of the Interstate Commerce Commission in the mid-Continent case above referred to, Chariman Boyd was appointed or was delegated to outline a basis of divisions acceptable to the Western Trunk Lines. There seems from the record to have been a misunderstand-

ing as to what authority was delegated Chairman Boyd but the general thought seems to be that he was given power to announce finally what the new divisions would be, which he did. They were acceptable to the——

[fol. 1141] The Frisco, however, did not finally agree to the divisions until January 1, 1917. One of the causes contributing to the acceptance of a new basis via Kansas City was the fact that the lines operating through St. Louis were able to make an agreement with the C. & E. I. and latter with other lines, whereby those lines accepted 6½ cents on crude and 8 cents on refined oil, making the St. Louis Gateway more attractive to the Southwestern Lines than formerly and giving them a route other than Kansas City. We contend that these divisions both via Kansas City and St. Louis yield inadequate revenue to the Southwestern Lines (Tr. 5538).

The 1916 arrangement was accepted as I explained. I would hardly call it an arbitration. As I explained, Boyd was delegated to fix the new divisions and there was not a general understanding as to how much authority was given Boyd. I have the record upstairs and it is not at all clear. The Santa Fe wrote that Boyd was given absolute authority. Boyd wrote that he considered that he had absolute authority but that in view of the fact that a misunderstanding existed he wanted everybody satisfied and for that reason did not insist on the divisions going in until October, 1916 (Tr. 5538).

Boyd is Chairman of the Western Trunk Line Committee. Our road is a member of that and so are some of the other Oklahoma Lines. I think most of them are. We never agreed that the divisions reflect a proper division of the revenue under the rates prescribed by the Commission in the case to which I refer. They were presumed by the Western Trunk Lines to do that. You see, it simply goes back to this proposition that the Santa Fe and the Rock Island which had refineries on their lines, agreed to these divisions leaving the three lines just as here without having [fol. 1142] agreed to them and the competitive feature required that we acept them. We are now accepting them and have accepted them for some years, a little over nine years, but conditions have now changed. There have been

changes in the rate basis outside of the general advances and decreases. I am coming to that. The groups were extended, which I will explain in another exhibit (Tr. 5539-5540).

A map thereafter described by the witness was thereupon offered in evidence as Exhibit A-208.

(The map referred to was thereupon received in evidence as Exhibit A-208).

The Witness: Exhibit No. A-208 is a map showing the present extent of the petroleum oil refineries in Oklahoma and Texas. All the refineries in operation in Oklahoma take the Tulsa Group rate so that it can be seen from comparison with the preceding exhibit, the map Exhibit A-207, the increase in the refining business in Oklahoma during the past ten years. There was no appreciable movement of oil from Texas to Western Trunk Line Territory until after 1916. Prior to the development of the Texas oil industry the movement had always been southbound, from Kansas and Oklahoma and even from St. Louis and the East (Tr. 5540).

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-209 (Tr. 5541).

(The statement referred to was thereupon received in evidence as Exhibit A-209).

[fol. 1143] The Witness: When Mr. Boyd fixed the divisions in 1916 he made three groups, the Kansas City Group, and Oklahoma Group 1 and an Oklahoma Group 2. This exhibit shows that the average distance from refining points in the original Oklahoma Group B or Tulsa Group to Kansas City was 278 miles. A majority of the Oklahoma refining points were in B. Muskogee, Ponca City and Vinita were in Group A but the Vinita Refinery, which was a very large one and the nearest Oklahoma refinery to Kansas City or St. Louis, has long since been dismantled.

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-210.

(The statement referred to was thereupon received in evidence as Exhibit A-210).

[fol. 1144] The Witness: Exhibit A-210 shows that the original Group B has grown from an average of 278 miles to 353 miles to Kansas City, an increase of 75 miles over the original Group B although the divisions to the Southwestern Lines have not increased. The points shown are those actually appearing in Western Trunk Line Division Sheet 530-A as in B (Tr. 5541).

The extension of the territory in the Southwest as shown by my Exhibit A-210 was brought about following the increase in the refineries and their extension over a wider area in the state and the addition of some of the Central Oklahoma points to the Tulsa rate group. The rates were extended to these new points but I would not say that the Southwestern Lines proceeded to do it. It gets back again to the fact that the Santa Fe and the Rock Island are both Western Trunk Lines and Southwestern Trunk Lines. The fellow who did it first was the Rock Island. It is generally true that the lines serving the origin field originally extended the application of the rate to take in additional territory but there is just one other addition to that statement: The Rock Island and the Santa Fe having done that, it was just as necessary or was thought just as necessary for a line like the C. & A. and the C. G. W. to join a line like the Katy in meeting that condition as any other feature of the case. That is, it was just as important to the Western Trunk Lines as to the Katy or Frisco to meet that condition (Tr. 5542).

The Santa Fe and Rock Island extended the rate and the Katy and Frisco and the rest of these roads had to do it on account of competitive conditions. I heard part of Mr. Sickel's testimony. I wouldn't say that there was not any distinction between what was done in the Oklahoma Field and what was done with respect to putting Milwaukee on [fol. 1145] the Chicago Rate basis. It seems to me like the conditions are entirely different. This condition is simply with reference to oil and nothing but oil, one commodity where we have a large producing field and a blanket rate. Up there it was simply Milwaukee playing against Chicago and the competitive condition on all commodities. In Oklahoma territory we also have a condition where the line serving Western Trunk Line and Southwestern Territory jointly did this. I think the conditions are entirely

different. The extension of the application of the rate did not operate to change the service performed by the Western Trunk Lines. It did this, however. Of course, it gave them additional revenue in that it opened up a wider origin group which could go into Western Trunk Line Territory. It increased the traffic (Tr. 5543-5544).

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-211 (Tr. 5544).

(The statement referred to was thereupon received in evidence as Exhibit A-211.)

[fol. 1146] The Witness: This exhibit shows the average distance from all of the Oklahoma refining points to both St. Louis and Kansas City and it shows an average of 342 miles to Kansas City and 543 miles to St. Louis. These are the figures that we have used in our computation on each of the exhibits and are based on the short line workable mileages. The points included are all of the Oklahoma refineries, the rates from which to Kansas City and St. Louis are on the same basis. In Exhibit A-210 I used an average mileage to Kansas City of 253 miles which is 11 miles different from the figures in Exhibit A-211. In A-210 I used Boyd's Group B and in Exhibit A-211 I used all of the Oklahoma refineries, both in the Division Sheet Group A and Group B because they all take the same rate and really any division of the Oklahoma Group as to rates or divisions is obsolete now (Tr. 5544-5545).

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-212 (Tr. 5545).

(The statement referred to was thereupon received in evidence as Exhibit A-212.)

[fol. 1147] The Witness: Exhibit A-212 is a three page exhibit showing short line mileages to Kansas City and St. Louis from Texas refining points in north Texas and south Texas groups. Also the average from each group. We have not included the Ranger group in these computations nor the Pioneer nor San Antonio group but had we done so it would have materially increased the average distances shown. The Ranger Group for illustration takes the same rate to Kansas City and St. Louis and Chicago as does the North Texas Group and the average distance is substantially

greater. The rates to many interior Iowa points and other destinations in Western Trunk Line Territory however are slightly higher so it was thought best to merely use the two groups. In doing so, however, the comparisons shown are more favorable than they would otherwise be to the Western Trunk Lines. The exhibit shows an average to Kansas City from North Texas of 534 miles, south Texas 747. On page 2 north Texas to St. Louis 728; south Texas 782.

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-213 (Tr. 5545).

(The statement referred to was thereupon received in evidence as Exhibit A-213.)

[fol. 1148] The Witness: Exhibit A-213 is a statement of mileages from Kansas City and East St. Louis to certain points in Illinois which were used in subsequent exhibits, to which reference will be made later. It is filed only for information and authority for the distances used. Those are all short line distances.

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-214 (Tr. 5546).

(The statement referred to was thereupon received in evidence as Exhibit A-214.)

The Witness: Exhibit A-214 shows the fifth class rates from Texas refining points to Kansas City and St. Louis and is the basis of computation of average fifth class rates used in subsequent exhibits.

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-215 (Tr. 5546).

(The statement referred to was thereupon received in evidence as Exhibit A-215.)

The Witness: Exhibit A-215 is an exhibit similar to A-214 and shows fifth class rates and average from Oklahoma refineries to Kansas City and St. Louis. It is merely for reference and is used in connection with subsequent exhibits.

A statement which was thereafter described by the witness was thereupon offered in evidence as Exhibit A-216 (Tr. 5547).

(The statement referred to was thereupon received in evidence as Exhibit A-216.)

[fol. 1149] The Witness: Exhibit A-216 shows rates from Ada, Okla., refining points, seven representative destinations in Western Trunk Line Territory, and shows divisions via Kansas City based first on the present oil per cent, second on the present merchandise per cent, third by using the merchandise per cent and applying the 14 per cent increase to the lines east of the Missouri River as accorded them by the Santa Fe, Rock Island, Missouri Pacific on L. C. L. traffic; fourth on a mileage prorate using average of 342 miles to Kansas City shown in Exhibit A-211; and fifth on a rate prorate of the class rates to and from Kansas City. It is not our fault that the mileage prorate or the application of merchandise per cent plus the 14 per cent increase would accord us sufficient revenue south of Kansas City but the exhibit plainly shows that based on the 14 per cent increase to the Western Trunk Lines over the merchandise per cent if applied to oil, we would receive considerably in excess of what we are now receiving (Tr. 5547).

These points of origin which I have shown all take the same rates to the destination shown, but they are not all in one group in Boyd's Division Sheet. You will notice that Muskogee and Ponca City just take the first block to Chicago. It shows that at the present time south of Kansas City we are earning 50½ cents while from the other points we are earning 17.3. Muskogee and Ponca City were in Boyd's original group A, while the other points were in his original Group B. The reason that the divisions are different from the different points is, as I explained previously, when Boyd fixed these divisions from Oklahoma he made two groups, a Group A and a Group B. Now the rates are the same from all Oklahoma points and as I stated, it seems to me that any divisional basis separating the Okla-[fol. 1150] homa refining points one from the other is obsolete. It is hard to draw a line and I used the grand average of 342 miles in my computations as to mileage prorates. I have shown the present oil per cent in the first column there which of course shows that Muskogee and Ponca City earn less money than the other points because they are in Boyd's Group A. I have used the average mileages in all

mileage per cents. In all of my per cents I have ignored the Group A-Group B theory (Tr. 5548-5549).

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-217 (Tr. 5549).

(The statement referred to was thereupon received in evidence as Exhibit A-217.)

[fol. 1151] The Witness: This exhibit is a statement of the actual movement of petroleum oil from Cushing, Oklahoma, via the M. K. T. for the month of November, 1925, via Kansas City to all points in Western Trunk Line territory to which two or more cars moved during that period. It is not a statement of weighted movement but shows the actual movement and the short line distance regardless of how the shipment moved. I selected Cushing, because it is one of the most important refining points in Oklahoma and is only 280 miles distant from Kansas City, whereas my previous exhibit showed the average from Oklahoma refineries to Kansas City to be 342 miles or 62 miles greater. The exhibit shows certain fifth class rates to and from Kansas City, the present division of the oil rate, division based on merchandise per cent, division based by allowing the Western Trunk Lines 114 per cent of the present merchandise per cent, division based on a mileage prorate, division based on a rate prorate using fifth class rates to and from Kansas City as factors (Tr. 5549).

The exhibit does not show any averages but there are some to which I want to call attention. There are 123 destinations shown on the statement and the average rate is 41.7 cents. Based on the present divisions, the average division south of Kansas City is 17.4 cents; north 24.3 cents. The average haul south of Kansas City is 280 miles, north 440 miles. The average ton mile earnings south of Kansas City are 12.6 mills; north 11 mills. The Western Trunk Lines perform 61 per cent of the service and receives 58 per cent of the rates. If we had used 342 miles as an average to Kansas City it would show that the Western Trunk Lines performed 56.3 per cent of the service and received 58 per cent of the rates. Using 280 miles the distance from [fol. 1152] Cushing to Kansas City, we would receive 16.3 cents on a mileage prorate or a reduction of 1.1 cents per 100 pounds. If we used a 342 mlie average, the average

from the Oklahoma Group to Kansas City, we would have earned under a mileage prorate 43.6 per cent or 18.2 cents per 100 pounds instead of 17.4 cents per 100 pounds. We know that we are entitled to a great deal more than a straight mileage prorate on this traffic in view of the difference in the traffic and transportation conditions as reflected by rate levels, the traffic density and the fact that the great preponderance of interchange is northbound et cetera. I think that Mr. Roberts was pointing out the other day that no oil moved from Louisiana via Kansas City (Tr. 5549-5550).

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-218 (Tr. 5550).

(The statement referred to was thereupon received in evidence as Exhibit A-218.)

[fol. 1153] Exhibit A-218 is similar to Exhibit A-217 except that it shows the movement for the month of November, 1925, that originated on the Midland Valley Railroad at Tulsa and moved via that line to the M. K. T. at Muskogee and the M. K. T. handled it from Muskogee to Kansas City and there delivered it to the Western Trunk Lines. It is simply an illustration where the M. K. T. is an overhead line. The figures were taken from actual interchange reports. It shows the short line mileage from various destinations to Kansas City and the actual mileage south of Kansas City. The average rate to the 93 destinations was 39.7 cents, the average revenue which the M. K. T. earned was 12.3 cents or 9.7 mills. The average revenue accruing to the Western Trunk Lines was 22.2 cents and the average distance north of Kansas City figures 449 miles an average of 9.9 mills. If we consider divisions from Tulsa on the basis of short line Santa Fe distance of 257 miles to Kansas City this statement shows that the service north is 63.6 per cent of the total while the lines north of Kansas City actually receive 58.4 per cent of the average rate. If we were to use the average distance from the Oklahoma Group and apply it to these destinations it would show that the Western Trunk Lines perform 56.7 per cent of the service for 58.4 per cent of the rate. In connection with this exhibit it should be borne in mind that the Oklahoma Lines receive a large amount of refined oil from con-

nections. That is the Oklahoma Line serving the Kansas City Gateway (Tr. 5551-5552).

Our receipts represent about 25 or 30 per cent of the total oil handled. These are our receipts from connections. Very few of these lines are respondents in this proceeding. Among the oil carrying lines not involved which make deliveries to connections at Louisiana, Texas, and Oklahoma points are the following: Wichita Falls, Ranger and Fort Worth, Wichita Falls and Southern, Dayton and Goose [fol. 1154] Creek, Oklahoma New Mexico and Pacific, Osage Railway, Midland Valley, Fort Smith & Western, Sand Springs Railroad, Oklahoma Union, Oklahoma Southwestern, Union Traction Company, Frisco & Northeastern, Okmulgee Northern.

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-219 (Tr. 5552).

(The statement referred to was thereupon received in evidence as Exhibit A-219.)

[fol. 1155] The Witness: This exhibit shows rates and divisions on refined oil from Oklahoma to origin points in Illinois and to Milwaukee, using present divisions in effect via East St. Louis, also divisions on a mileage prorate and on a rate prorate using fifth class rates to and from East St. Louis as a factor, first deducting bridge in the last two illustrations the average distance used from Oklahoma points is 543 miles as detailed in Exhibit A-211. The average fifth class rate from Oklahoma refineries is 95.9 cents as shown by Exhibit A-215. This shows that generally via St. Louis we are receiving actually less than a mileage prorate. They have a straight mileage prorate. We are of course entitled to more than that amount and the exhibit shows that we are certainly receiving less than our share of the revenue on this traffic.

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-220 (Tr. 5552-5553).

(The statement referred to was thereupon received in evidence as Exhibit A-220.)

[fol. 1156] The Witness: Exhibit A-220 shows the rates and present divisions from north and south Texas points

on petroleum oil. The first two pages show the North Texas rates and divisions and the following pages South Texas. The average mileages to Kansas City are those shown in Exhibit A-212. The average fifth class rates to Kansas City are shown in Exhibit A-215. The average distance north Texas refineries to Kansas City is 534 miles; the average fifth class rate $1.06; pages three and four show the rates and divisions from South Texas and show that in some instances a mileage prorate would yield us revenue in excess of the present division.

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-221 (Tr. 5553-5554).

(The statement referred to was thereupon received in evidence as Exhibit A-221.)

[fol. 1157] The Witness: Exhibit A-221 is similar to A-220 except that it shows the situation via East St. Louis. This clearly shows the fact that our revenues via the St. Louis Gateway are lower than a fair basis would accord us. In five of the seven illustrations a mileage prorate, first deducting bridge, would accord us more money than we are now receiving. The oil from Texas has always moved on merchandise per cents except that I do want to correct one statement I thought you asked Mr. Dana the other day and he stated that his understanding was that the Western Trunk Lines had not compounded any revenue on northbound business. Just before I left St. Louis I had on my desk and recommended for payment a statement of differences as I recall it, about $7,000.00, where the C. & N. W. had demanded a compounding of the revenue through Marshalltown on oil from Texas on 1921 and 1922 business as I recall it (Tr. 5554-5555).

The Northwestern also asked for Tulsa revenue or whichever will give the most money. Their requests are irregular. They request Tulsa revenue from time to time but whenever we find Western Trunk Lines are taking revenues from us on Tulsa revenue, we simply deliver it to them. We haven't given anybody Tulsa revenue as I can recollect. Some roads go to greater lengths than others. I do not know as to whether the Chicago-New Orleans Railroads

are accepting the regular merchandise per cents on Texas oil (Tr. 5555).

(A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-222 (Tr. 5555). (The statement referred to was thereupon received in evidence as Exhibit A-222.)

[fol. 1158] The Witness: Exhibit A-222 shows actual movement from Texas points to destinations in Western Trunk Line Territory where two or more cars moved by the M. K. T. during September, October and November, 1925. Merchandise per cents apply on petroleum oil and its products from Texas to Western Trunk Line Territory. From Wichita Falls on page 1 is shown the movement to twenty-five destinations which is all the points to which two or more cars moved for the period shown via M. K. T. The average rate to the twenty-five destinations figures 39.6 cents. The average revenue south of Kansas City 24½ cents, north 15.1 cents. The lines north of Kansas City receive an average of 38 per cent of the rate and rendered 43 per cent of the service, their average haul being 411 miles. Based on a mile and a half for a mile for the Southwestern Lines, we would have received an average of 26.1 cents instead of an average of 24.5 cents. Wichita Falls is a representative point of origin. As the average shown on preceding exhibits if 534 miles from North Texas groups to Kansas City as compared with 540 from Wichita Falls. Page 2 shows a similar illustration from Burkburnett, Texas, to twenty-six destinations. The short line distance south of Kansas City is 554 miles. Average short line north of Kansas City 380 miles. The average of the rates to these 26 destinations is 39 cents, average revenue to the Southwestern Lines 26 cents, Western Trunk Lines 13 cents. Based on allowing the Southwestern Lines a mile and a half for a mile, we would be entitled to 26.8 cents; the Western Trunk Lines 12.2 cents (Tr. 5556).

Page 3 shows shipments from Hodge, Texas, which based on a mile and a half for a mile in division to the Southwestern Lines would accord us 25.6 cents per 100 pounds instead of an average of 25.3 cents. Similar illustrations are shown [fol. 1159] from De Leon and Houston. Page 4 shows rates

and divisions on actual shipments from Iowa Park and Electra, Texas, both points on the F. W. and D. C., to the ten destinations to which shipments moved via our lines from Iowa Park, our average earnings as intermediate line were 6 mills; the earnings of the Western Trunk Lines 6.4. Page 5 shows the shipments from North Olney or Olney, Texas, on the Wichita Falls & Southern Railway. As an intermediate carrier here we earned 5.5 mills while the Western Trunk Lines received an average rate of 19.1 cents for an average haul of 489 miles or 7.8 mills. The basis which Milwaukee takes north of Kansas City is 26, as shown on the first page of the exhibit. On the next shipment from Milwaukee the basis taken from Kansas City was 22. I have shown Milwaukee via the C. M. & St. P. and via the C. & N. W., and that's the way they actually compound their revenue. That would be true of all those instances where I have used the same point twice. I might say that I have figured these averages using Milwaukee only when I did not find any appreciable difference, although I included it twice (Tr. 5557-5558).

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-223 (Tr. 5558).

(The statement referred to was thereupon received in evidence as Exhibit A-223.)

[fol. 1160] The Witness: A volume of packing house products and fresh meat moving from Oklahoma and Texas to the east via Chicago represents about 30 per cent of our entire deliveries of this product to the Western Trunk Lines at Kansas City. This business moves to the east on through rates. For the haul Kansas City to Chicago the Western Trunk Lines receive more money than on shipments destined to Chicago proper. Exhibit A-223 shows on page 1 divisions on fresh meat and packing house products from Oklahoma City to Chicago and New York and on page 2 is shown a similar illustration from Fort Worth. These are the two packing centers of the Southwest. It is important to bear in mind that on this substantial amount of business as well as on other business moving on through rates to the east, the lines from Kansas City to Chicago are receiving greatly in excess of the merchandise

percents applicable to Chicago from Oklahoma and from Texas and of which they are complaining (Tr. 5558).

The rate of $1.36 on fresh meat from Oklahoma to New York is a through rate. The C. & A. handled this meat in the example referred to and got 33 cents. In subdivision of the through rate the C. & A. theoretically got part of the rate. As a matter of actually dividing the money under the division sheets, it is done that way because the original basis was the combination on Mississippi River. The exhibit does not show the subdivision of the through rate as between the Alton, for example, and the Katy, but it does show that we are doing considerable shrinking on the business going to the east while the lines from Kansas City to Chicago are getting considerably more (Tr. 5559).

Regardless of the fact that the divisions east are not involved in the case, it shows this: the divisions to the Mississippi River are involved in this case. Assuming that it [fol. 1161] breaks on the River as you say, then if increased divisions are accorded the Western Trunk Lines, they will get more than this amount of money on the Eastern business because they will get more to the Mississippi River.

The following is quoted verbatim from the transcript of testimony:

Q. But the division does break on the Mississippi River so far as the lines west are concerned, does it?

A. Yes.

Q. So that we have no way of knowing how that division was made?

A. Well, the cents are shown at the bottom of the page there as to the subdivision of the proportions, they don't show the proportions, however. The point that hurts us here is that we are shrinking 12.1 cents on fresh meat from Oklahoma City when it goes to New York versus Chicago.

A map thereafter described by the witness was thereupon offered in evidence as Exhibit A-224 (Tr. 5560).

(The map referred to was thereupon received in evidence as Exhibit A-224.)

[fol. 1162] The Witness: Exhibit A-224 is a map showing the extent of the cotton-seed oil mills in operation in Oklahoma and Texas. Those States have a large number of mills and the map is filed prefacing testimony with regard

to divisions on cottonseed cake and meal moving from Oklahoma and Texas into Western Trunk Line Territory. It serves to illustrate the importance of this industry to Oklahoma and Texas.

The Statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-225 (Tr. 5560-5561).

(The statement referred to was thereupon received in evidence as Exhibit A-225.)

The Witness: Exhibit A-225 shows the movement via our line to Western Trunk Line Territory for the year 1925, the cottonseed cake moving via Kansas City which consisted of 396 cars. These figures were taken from the actual interchange records at Kansas City. The other Southwestern Lines made substantial deliveries of this commodity to connections at Kansas City and it is safe to assume that the deliveries as a whole approximated 2,000 cars yearly.

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-226 (Tr. 5561).

(The statement referred to was thereupon received in evidence as Exhibit A-226.)

[fol. 1163] The Witness: Exhibit A-226 consists of seven pages and shows divisions on actual movement of cottonseed cake and meal from Oklahoma and Texas to Western Trunk Line Territory. Page 1 shows rates and divisions from Oklahoma points to Illinois and Wisconsin. We have shown the present divisions, divisions based on short line mileage prorate, rate prorate, using proportional rates north of East St. Louis, and have also shown the per cent that the present divisions are of the local or proportional rates to and from the basic points (Tr. 5561-5562).

The second page shows similar information, from Texas points. On page 3 we have shown some actual movements from Oklahoma via Kansas City, showing the present divisions, present merchandise percentage basis and basis arrived at by allowing lines north of Kansas City 114 per cent for their present merchandise per cent and short line mileage prorate and rate prorate, using proportional rates north of Kansas City as the factor and the per cent

that the present divisions are of the local or proportional rate to and from the basis point. Pages 4, 5, 6 and 7 show origins and destinations of actual shipments moving through Kansas City to Western Trunk Line Territory by the M. K. T. for the months of September, October and November, 1925, with the same information as on page 3. Note that in every case the Western Trunk lines received their full proportional rate beyond Kansas City. The rates shown here are the rates the Commission recently prescribed for the movement of these commodities. The order did not apply as to rates from Kansas City to Western Trunk Line destinations. It applies from Southwest to Western Trunk Line destinations. These rates are the rates in effect under that order, and the rates shown from the Southwest to Kansas City are also the rates under [fol. 1164] the order. The rates from Kansas City north were not involved.

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-227 (Tr. 5562-5563).

(The statement referred to was thereupon received in evidence as Exhibit A-227.)

[fol. 1165] The Witness: Exhibit A-227 shows the movement of cement plaster from Agatite, Rotan and Hamlin, Texas, via the M. K. T. to points in Western Trunk Line Territory during the months of September, October and November, 1925. I might explain right here that I have made no attempt to show the number of cars. It just simply shows the destinations to which cars moved. Agatite is located on the Fort Worth & Denver City and page 1 shows the shipments from this point. The present rates and divisions, earnings per ton mile, as well as divisions based on the Class C rate as factor are shown. Under the present basis of division we are receiving a maximum of 4 mills per ton mile for any traffic involved. In no case did the Western Trunk Lines receive less than 6.3 mills. Page 3 shows the movement from Rotan and Hamlin, both points on our lines in Texas. Note the ton mile earnings, we receive it materially less in every — less than the Western Trunk Lines.

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-228 (Tr. 5563-5564).

(The statement referred to was thereupon received in evidence as Exhibit A-228.)

[fol. 1166] The Witness: Exhibit A-228 is in part an abstract taken from Western Trunk Line Exhibit A-60, which shows that on 3,319 cars of petroleum during June 1924 via Kansas City, from Oklahoma Group B division points, the Western Trunk Lines received 56 per cent of the revenue for 58 per cent of the haul. On the grand total from Oklahoma and Texas they received 45 per cent of the revenue via Kansas City or 52 per cent of the haul. On page 2 is shown a situation which is taken from the same Exhibit via East St. Louis. Of the 287 cars moving from Group B ponts, the Western Trunk Lines according to figures shown in Exhibit A-60 received 35 per cent of the revenue for 36 per cent of the service. In the second block is shown the same illustration with the bridge at St. Louis deducted from the Southwestern Lines' proportion. From Group B points it shows that the Western Trunk Lines received 37 per cent of the revenue for 36 per cent of the service illustrating that the revenue via the St. Louis gateway accorded the Western Trunk Lines is entirely too high. From Texas with the bridge deducted it shows that Western Trunk Lines performed 24 per cent of the service while receiving 26 per cent of the revenue (Tr. 5564).

I don't think it is a fact that our revenue with the bridge deducted is net while the revenue north is gross. Our revenue is with the bridge deducted, but I have not deducted any originating absorption. We have refineries located on other lines and we have considerable deductions to make at originating points just the same as you have at destination and one pretty generally offsets the other. It is not my opinion that where there is a joint facility owned by a number of lines that one set of lines should pay the bridge toll on all traffic moving in all directions.

A statement thereafter described by the witness was [fol. 1167] thereupon offered in evidence as Exhibit A-229 (Tr. 5565).

(The statement referred to was thereupon received in evidence as Exhibit A-229.)

[fol. 1168] The Witness: Exhibit A-229 shows the southbound movement of miscellaneous commodities, all of which actually move via route shown in October, 1924, filed principally with a view of illustrating what the M. K. T. furnishes as a pass over line between Kansas City and its Texas connections on such traffic. The first page shows shipments which moved via Omaha, Council Bluffs or Des Moines on which the Western Trunk Lines compounded their revenue northward Kansas City. Our earnings on this business are entirely unfavorable as compared with the earnings of the Western Trunk Lines. On page 2 the first two items are movements direct via Kansas City. Our earnings are there considerably lower than those of the Western Trunk Lines. The last item is another instance where the revenue is compounded through Des Moines where C. & N. W. exacted 23.3 cents per 100 pounds for its haul of 72 miles from Marshalltown to Des Moines.

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-230 (Tr. 5565-5566).

(The statement referred to was thereupon received in evidence as Exhibit A-230.)

[fol. 1169] The Witness: Exhibit A-230 is a companion of the preceding exhibit and shows the situation northbound from Oklahoma where the M. K. T. is an intermediate carrier. It shows conclusively that we cannot and should not be compelled to give up any money on this traffic as to which we are a pass over line.

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-231 (Tr. 5566).

(The statement referred to was thereupon received in vidence as Exhibit A-231.)

[fol. 1170] The Witness: Exhibit A-231 illustrates a similar northbound situation from Texas and shows divisions accruing to the various lines where the M. K. T. is intermediate on representative northbound moving commodities. Here the showing is such that it is apparent; the intermediate line such as the M. K. T. cannot bear any additional shrink in its revenue (Tr. 5566-5567).

At the beginning of the present hearing Mr. Parsons read into the record some figures showing what the recent compromise with the trans-Missouri and Oklahoma lines mean to the Western Trunk Lines in the way of additional revenue. He made the statement that out of the total amount based on the June, 1924, figures, only $1,931.84 represented the amount that the Western Trunk Lines derived from the increase on Oklahoma traffic through the compromise with the Santa Fe-Rock Island and Missouri Pacific and that based on that figure and using the ratio that the general revenue bore to the entire year it would only mean $25,553.44 per year. This bears out my statement that the Oklahoma compromise is of vastly more importance to such lines as the Frisco, K. C. S. and Katy, all of which terminate at the Missouri River, than it is to the Santa Fe or Rock Island. We have had some figures compiled as to the effect of the 14 per cent increase on our revenue had it been accorded. Based on figures we have taken from our March, 1924, revenues the loss on Oklahoma business on the compromise basis would have amounted $5,198.21 for that month. March 1924 represented 6.9 per cent of our freight revenue for 1924, the 1924 revenue bing $42,331,704.74, and March of that year $2,917,269.80. On this basis the total loss for the year would figure $75,300.00. This does not include petroleum oil, cottonseed cake and meal and other commodities on which merchandise per cents do not apply [fol. 1171] and of course does not include loss accruing to the Frisco or Kansas City Southern (Tr. 5567-5568).

J. R. Mills was thereupon called as a witness and testified as follows:

Direct examination:

I am Assistant General Freight Agent of the Kansas City Southern and have had about thirty-five years experience in traffic work.

(Attorney Towner here conceded the witness' qualifications.)

I have had experience in the making of divisions between the Western Trunk Lines and the Southwestern Lines during that period (Tr. 5568-5569).

My Exhibit No. A-232 consists of seven pages showing the rates and divisions on lumber from the Southwestern blanket territory to destinations in the Western Trunk Line States. This exhibit is cast along Mr. Buhrle's Exhibit No. A-39—I believe is the number—on which he drew off on a map a lot of groups. Now we have attempted to take those group outlines showed on that map and take a few stations in each of those groups and which we believe is representative of the entire situation so far as destinations on the Western Trunk Line roads are concerned. This statement shows first the division south of Kansas City in cents per 100 pounds and the proportions that division bears to the through rates designated in per cents. It also shows for the lines south of Kansas City the divisions that would accrue by use of the merchandise per cent. It shows similar information with reference to the divisions accruing to the Western Trunk Lines north of Kansas City and what they would receive based on the current merchandise per cent. It shows the average distance to Kansas City, Mo., and the distance beyond Kansas City to the points designated. It [fol. 1172] also shows the territory in which the points of destination are located (Tr. 5569).

With reference to the average mileage to Kansas City there is a note "See representative origin points listed on Sheet No. 2." Sheet No. 2 is the one that has been marked here as Exhibit A-233. Exhibit A-233 gives a list of representative mill points in Southwest Territory that are located in the blanket group usually designated as the Southwestern Blanket Territory so far as lumber rates are concerned. These points were selected from the points located on the various lumber producing roads in the blanket territory. It shows the routes and the distances to Kansas City via such routes and the average distance from all of the points mentioned via various routes as shown and which are the workable routes as designated in the tariff referred to on the exhibit. I might also say that the majority of these points are large mill points. We have occasionally picked out a point in a certain group or on a certain line that probably was not a mill point. At the same time the combination would produce a lot of rough material in the way of ties, poles and other forest products.

Referring to Exhibit A-232 I would give some examples of the difference between the earnings under a mileage pro-

rate and the earnings under the rates as actually divided. I will have to do it by first giving such distances and indicating what those distances would alow the Western Trunk Lines based on a mileage prorate. If the Western Trunk Lines have a haul of one hundred miles, a mileage prorate would allow them approximately 11 percent; 200 miles would allow them approximately 20 percent; 300 miles 27 percent; 400 miles 33.3 percent; 500 miles 38.5 percent; 600 miles 42.9 percent; 700 miles 46.7 percent; 800 miles 50 percent. And taking the first page of the exhibit: Jefferson City, Missouri, 213 miles from Kansas City, 26.6 percent [fol. 1173] and a mileage prorate would allow approximately 20 percent. Machens, Mo. 319 miles to Kansas City would allow a little over 27 percent, while actually the lines north or east of Kansas City receive 44.6 percent. Hannibal, Mo., 200 miles from Kansas City, a mileage prorate would give them 20 percent. That is the current percent and they actually receive 41.1 percent out of the through rate. Now I can take each one of these sheets and the results would be practically the same except as to the degree of difference. In a very large majority of the cases the lines north of Kansas City receive very very much in excess of a mileage prorate. The only difference would be to a few points in Wisconsin where the rates were adjusted on a little different basis than to the balance of the territory and which I will try to explain a little alter (Tr. 5570-5571-5572).

(The statement theretofore described by the witness and referred to as Exhibit A-232 was thereupon received in evidence as Exhibit A-232.)

[fol. 1174] In getting the rate south in Exhibit A-232 and A-233 I used all the routes and mileages from the origin points. In figuring the mileages north I didn't use the short line distance at all. I took the actual routes (Tr. 5572).

We didn't use the average mileages because we did not have sufficient time. We have not had anything like the amount of time that the Western Trunk Lines had. If I had started at the north end instead of the south end it would not have changed the picture at all because any way you figure it the northern lines are receiving very much in excess of a mileage prorate. Referring to Crossett, Arkan-

sas, where an average mileage of 806 miles is used as compared with the direct short line of 662 miles, I don't think it would change the actual route. I noticed that we actually handled lumber from Crossett, Ark., via Monroe, V. S. & P. and our line. I will concede that some of the lumber from Kansas City might move over a road other than the Santa Fe. I don't know what the mileage of the Great Western from Kansas City to Chicago is. I should say that a reasonable mileage for us between Kansas City and Chicago would be 490 miles or 483 miles or something like that. I think it is correct that if I wanted to make the picture on the proper basis I should use the average mileage south and the average mileage north of all routes. I would say if that were done the Western Trunk Lines would still receive much in excess of a mileage prorate. Exhibit A-233 shows the short line mileages from all of the origin points to Kansas City in some shape or other via all routes (Tr. 5573-5574-5575).

I want to explain the manner in which the through rates on lumber to Western Trunk Line points was originally made. The Western Trunk Lines apparently had con- [fol. 1175] ferences among themselves and determined the rates they wanted on this movement from Cairo and group, St. Louis and group, and Kansas City. After they had fixed on their divisions or proportional rates, they then would ask for a conference with the Southwestern Lines so they might determine upon the through rates. I think from the inception of the through rates to Western Trunk Lines or at least when through rates were first published the rate to Cairo from some of the west side lines was 14 cents and to St. Louis 16. Those figures, however, did not apply from all of the originating lumber lines (Tr. 5574).

Later on the rate to Cairo was increased to 16 cents and to St. Louis to basis or 18 cents and the through rates to Western Trunk Line points after the rate to Mississippi River Crossings were readjusted, were based on those figures. In a majority of the cases the rates were made on the Cairo combination. There were some few instances where St. Louis made the combination but that was to near by points. There were very few instances where the rates to Kansas City which was 23 cents while the rate to St. Louis was 18 and as I say that figure was used in very few

instances in making rates even to the territory in the immediate vicinity of Kansas City. Now generally speaking the rate to the territory between Missouri and the Mississippi River, no matter the distance, were usually fixed on the same basis and that basis held except to a point nearby to either Kansas City or St. Louis where the combination was such that it was impossible to carry the rates on the St. Louis combination or Cairo combination. As an example, the distances from St. Louis to Des Moines is 340 miles short line and from Kansas City 218 or 20 miles short line and the rates were the same except for a certain period when I believe the Wabash carried probably a cent or a cent [fol. 1176] and a half less from St. Louis than the lines carried from Kansas City (Tr. 5575-5576).

Now to Mississippi River crossings and Illinois points, Wisconsin points including Chicago and Milwaukee, the rates generally made on the Cairo combination. At that time, that is, so far as my recollection goes, the origin rate from Cairo was Chicago was 10½ cents and from St. Louis 8½ and Milwaukee was either 2 or 3 cents higher, but these combinations were used in the construction of the through rates. In divisions the lines St. Louis to Chicago, I believe, took 1 cent less than their local. In any event the division they received north of St. Louis was based on a proportion of the rate for the Cairo group. Then from Kansas City to the River Crossings and east thereof in Western Trunk Line Territory they accepted substantially the Cairo division. Now naturally from the lumber producing territory which is largely in eastern Texas, Louisiana and southern Arkansas, the distance to Kansas City in practically all instances was either the same or exceeded the distance to St. Louis. That meant that the lines operating south of Kansas City were compelled to handle their lumber at a less ton mile rate than the lines through St. Louis. In fact if we expected to participate in the movement of lumber to St. Louis at all in connection with the Western Trunk Lines, it was necessary for their entire proportion to come out of the revenue of the lines south of Kansas City. To the C. F. A. Territory the rates were all made—I should say the rates were all originally made on the Cairo combination. The C. F. A. lines accepted on business handled through East St.

Louis a division that was 3 cents per 100 pounds less than the rate from Cairo (Tr. 5576-5577).

From Kansas City the lines generally did not participate [fol. 1177] in this movement. The Kansas City Southern originally had through rates via Kansas City in connection with the Wabash alone to points such as Detroit, Buffalo and later on were permitted by our other connections to establish similar routes via Kansas City in connection with their lines. I personally handled the negotiations with the Trunk Lines myself and demurred at first to attempting to establish through rates via Kansas City. We did, however, agree to the same basis for dividing as in the case of the Chicago, where the lines allowed us Cairo revenue. In some instances since that time the Trunk Lines have undertaken to change the divisions to C. F. A. Territory but we have declined to change from the original basis and after calling their attention to the original understanding had with them, they have desisted in their efforts to change these divisions (Tr. 5577-5578).

In handling this business via Kansas City the Kansas City Southern is, on lumber from connecting lines, really one of the connecting link roads. The other lines either have through rails to St. Louis or through rails to Chicago. It is true the Santa Fe and Rock Island for instance probably turn some lumber over to their connections at Kansas City. I believe, however, that there would be very few instances of this kind because they can handle lumber through to their junctions with delivering lines east of Kansas City. Likewise the lines operating to St. Louis with their own rails, would probably deliver some of this lumber to Western Trunk Lines, but I am satisfied that it would only be in instances and in the case of destinations that are located closer to the Missouri River. Hence the Kansas City Southern is the only Southwestern Line that undertakes to handle all of its lumber via its connections at Kansas City and I am frank enough to say that should there be any in- [fol. 1178] crease in the divisions east of Kansas City, to the C. F. A. and eastern territory, it would be our disposition to eliminate so far as possible the movement of this business via the Western Trunk Lines (Tr. 5578-5579).

In the majority of cases the haul to the Southwestern Lines on lumber is a one-line haul. There are several smal-

ler lines and some of the tap lines, of course, where it is two line service. With the Kansas City Southern, except as to its own lumber, it is always two and in many cases three-line service. There is a good big portion of the lumber that originates on the tap lines and there is also a very large proportion that we receive from our connections such as the L. R. & N., the L. & A. and the V. S. & P., the Southern Pacific, the Texas Pacific and their short line connections. It might be in some cases tap lines and in others there would be short line roads that are not in the tap line class. Fifty per cent of the Kansas City Southern's lumber business originates on short lines or tap lines and other short line connections (Tr. 5579-5580).

Referring to the question of mileages there is a Chicago destination territory. So far as lumber is concerned the furthnerest point in that territory is Chicago. I say that advisedly because lumber rates are based on the rates to and from the Mississippi River, so that it is substantially true that the comparison of the mileage from the origin to Kansas City and from Kansas City to Chicago is a comparison of the average from the origin points to Kansas City with the short line mileage to the fartherest point in the destination group (Tr. 5580).

I would say that the Southwestern Lines are naturally entitled to an increase in their divisions on lumber if the [fol. 1179] Western Trunk Lines receive in exces of a mileage prorate. I don't see any reason why the merchandise per cent should not apply (Tr. 5581).

About twenty per cent of the Kansas City Southern's total traffic is forest products. I think the longest estimated life of any mill in the district served by the Kansas City Southern is approximately five years. The large mills are closing down pretty fast and when the last of them closes down why the only movement from this district will be in the nature of poles, ties and posts, fence posts, small material, and mine props. I think it will make a considerable reduction in the movement of forest products via the Kansas City Southern. It is very hard to estimate, but I should say that we can expect a decrease of at least fifty per cent and probably more in forest products (Tr. 5581-5582).

About twenty-five per cent of the total traffic of the Kansas City Southern is petroleum and its products. The Kan-

sas City Southern has had some experience in the reduction of this traffic. We were one of the pioneers in the production of petroleum in the Beaumont Field in Texas and we also had a production in Caddo Field near Shreveport. Those two productions have just about disappeared so far as local production is concerned. I would say that from our experience that the movement of petroleum products is not a stable movement except to the extent that we depend on our connections for the oil movement. We at one time handled quite a lot of oil out of the Oklahoma Field, but with the adjustment, or readjustment of divisions, we lost practically the entire movement from Oklahoma in connection with the Midland Valley and the other short lines. It was brought about by the fact that the Midland Valley has a direct connection with other lines to Chicago and to St. Louis. Their percentages are based on mileage with a minimum figure and a break out for the shorter hauls to the [fol. 1180] direct through Chicago lines, they receive, on account of the minimum they receive about the same revenue as they would receive if they hauled it to our junction which is considerably farther away. They did that for a while until their revenue was reduced materially and that apparently called their attention to the fact that they were handling this oil to connections with our line and at a pretty low figure and from then on the movement has gradually dissipated. I suppose some of it is also going to the connections through St. Louis where the divisions allowed the Trunk Lines from that point is somewhat less than from Kansas City. Consequently by the use of their minimum division and which they receive out of the divisions south of St. Louis, it probably allows them more money than we can afford to allow them (Tr. 5583).

The change in divisions via Kansas City was the result of the agreement entered into by Mr. Boyd and Mr. Leland as referred to by Witness Trovillion. That was substantially a mileage prorate. It did not affect the other lines from Chicago into the Southwest to which I have referred except as to the tonnage they turned over to their connections at Kansas City. Having their through rates to Chicago and junctions farther east than Kansas City naturally their effort would be to handle the business via their

longer route or junction point and that is one of the things that we have had to contend with all along (Tr. 5584).

We deliver quite a lot of produce, apples, berries, and other perishables, raised along our line to our connections at Kansas City. We have as the originating line, expenses very similar to those referred to by Witness Stanage. We have no refrigerators of our own. It is necesary for us to arrange with one of the refrigerator lines to handle the [fol. 1181] traffic. That is absolutely necessary for the protection of the carriers and in handling it we must furnish special service, special trains, special dodger service to handle it and concentrate it at some given point. It requires icing and reicing and additional handling and in addition to that it is necessary for us at times to take care of a part of the icing expense where ice is pretty high. The refrigeration rates are based on a nominal charge per ton for ice and if the refrigerator car lines have to pay over $4.00 or $.50 per ton for ice, why we have to take care of practically the entire expense brought about by the initial cost of ice and that at times has amounted to considerable. There is no way we can get out from under that expense because it is covered by contract and it is up to us to either get ice for them at a reasonable rate or assume or take care of the difference ourselves. The proportion of fruits and vegetables handled by the Kansas City Southern to the total traffic is somewhat less than the Frisco, at least in the case of some commodities, but the amounts would be comparative. I should say probably that we would handle about twenty-five to thirty-five per cent or more of the amount that the Frisco handles (Tr. 5584-5585).

The Kansas City Southern handles ores and ore concentrates via Kansas City. We have made a recent connection through a new line down to Baxter, Kansas, we connect with some of the small ore roads and we are in a position to handle that ore to the same extent as the other lines and we probably will have to handle the larger part of it to Kansas City (Tr. 5585-5586).

We handle interchange of cottonseed cake and meal via Kansas City. We have several oil mills on our lines. This traffic originates at Ashdown, Texarkana, Fort Smith, Salisaw and Shreveport (Tr. 5586).

[fol. 1182] (The statement of average mileages theretofore described by the witness and referred to as Exhibit A-233 was thereupon received in evidence as Exhibit A-233.)

[fol. 1183] I stated that I would explain some changes that had been made in the through rates on lumber to stations in Wisconsin on the Milwaukee Lines and I just wanted to say that after the through rates had been established on the combination of locals, the Milwaukee people came to us in reference to a large movement of poles to their Wisconsin stations and the rates were reduced somewhat below the combination and the reduction was prorated and that was the explanation that I wanted to make with reference to those rates not being on the combination basis as subsequently increased and subsequently reduced on July 1, 1922 (Tr. 5587).

Reverting to the class rate divisions from Chicago Territory to Fort Smith, the first class $2.04, 2nd class $1.72, 3rd $1.40, 4th $1.19½, 5th 94 cents, A $1.04½, B 81½ cents, C 72 cents, D 61 cents, E 51 cents. The division north of Kansas City 45 percent for the first four classes and 50 percent on the balance of the classes, which allows the lines north 91.8, 77.4, 63, 53.8, 47, 52.2, 40.8, 36, 30.5, 25.5. The locals north of Kansas City are $1.20, $1.02, 84, 60, 42, 48, 39, 33½, 27, 24. The divisions are in excess of the locals by the following figures: on 5th class 5 cents, A 4.2, B 1.8, C 2.5, D 3.5, E 1.5.

The authorities are F. A. Leland's I. C. C. 1688, I. C. C. 1644; E. B. Boyd's ICC 1841, KCS Percentage Sheet 188-D and Percentage Sheet 121-C. The short line distance from Chicago to Kansas City is 452 miles. The short line distance from St. Louis to Kansas City is 278 miles. St. Louis distance is 61 percent of the Chicago distance. On business from St. Louis Territor- to Fort Smith the line north of Kansas City received 32 percent which is 64 percent of the divisions allowed from Chicago to Kansas City, on the basis of the 50 percent division and 71.1 of the Chicago division, [fol. 1184] were based on 45 percent.

(Here there was a discussion as to the short line distance from Chicago to Kansas City. Mr. Dana said that the correct short line distance, freight line, was 452 miles). (Tr. 5588.)

From Chicago Territory to Shreveport the first ten classes are as follows: $2.32, 1.96, 1.61, 1.37, 1.08½, 1.30, 93.5, 82, 70, 60. Divisions north of Kansas City 92.8, 78.4, 64.4, 54.8, 43.4, 48, 37.4, 32.8, 28, 24. These divisions are based on the line north of Kansas City receiving on Shreveport 40 percent of the through rates from Chicago. The average rate from Chicago to Kansas City is 58 cents. The average division is 50.4 cents or 87 percent of the local of the average local. The average rate Kansas City to Shreveport is 112.6, average division 64.4 or 60 per cent of the local. St. Louis Territory, the line north of Kansas City on Shreveport is allowed 25 percent or 62.5 percent of the division from Chicago, while the St. Louis distance is 61 percent of the Chicago distance. The first ten classes from Chicago territory to De Quincy and Lake Charles, La., are: 237, 201, 163, 140, 114.5, 123.5, 94, 84, 71.5, 61.5. The lines north are allowed 30 percent resulting in the following divisions: 71.1, 60.3, 48.9, 42, 34.3, 37, 28.2, 25.2, 21.5, 18.4. The average rate Chicago to Kansas City is 58 cents; average division 38.7 or 66.7 percent of local. Average rate Kansas City to De Quincy and Lake Charles 113.6; average division 80 cents or 70 percent of local. The division from north of Kansas City on St. Louis is 25 percent or 83.3 percent of the Chicago division, while the distance from St. Louis is 61 percent of the Chicago distance (Tr. 5589).

Now in connection with Mr. Sickel's Exhibit No. A-170, giving divisions via St. Louis and Cairo to Louisiana Territory: as I understand it, the divisions with the lines north [fol. 1185] of Kansas City on Chicago Territory to the so-called Shreveport Group is 40 percent. On St. Louis Territory via Kansas City 25 percent. Generally speaking to the territory south of the Shreveport Group the divisions are as follows: to De Ridder, Bon Ami, De Quincy, Lake Charles and Westlake, the Chicago Territory Lines north 30 percent; St. Louis Territory Lines north 25 percent. To the balance of the territory in Louisiana south of the Shreveport Group it is my understanding the lines ought to receive on the Chicago Territory 25 percent north of Kansas City and on St. Louis Territory 20 percent north of Kansas City. These divisions being shown in D. A. R. System Percentage Sheet No. 121-C. All of the rates and divisions which I have given prior to that are shown in the

same authorities I gave in the first illustration (Tr. 5590).

Exhibit No. 234, consisting of a blue-print map showing the principal Southwestern Lines forming the short routes or some of the shorter routes, St. Louis to Kansas City, will be used to illustrate some of the difficulties encountered by the lines making connecting links between the Southwestern Lines on the one hand and the Western Trunk Lines on the other hand via the Kansas City Gateway. The through lines to St. Louis such as the Missouri Pacific in black, the Frisco in yellow, the Cotton Belt purple and the M. K. T. green. It will be noted the Cotton Belt, the Missouri Pacific, the Frisco and the M. K. T. have a connection or connections with practically every origin line in the four Southwestern States and through such connections reach the balance of the Southwestern Lines (Tr. 5590-5591).

It is necessary for lines forming routes with lines such as the Kansas City Southern, Santa Fe and other lines forming these connecting links, consisting of such lines as [fol. 1186] do not reach St. Louis with their own rails, to join in meeting competition set up by these direct St. Louis Lines, that is to say the Western Trunk Lines cannot expect nor can these lines forming the so-called connecting links afford to allow Western Trunk Lines an increase in divisions to or from St. Louis proper and to or from Mississippi River Crossings on traffic originating or destined east thereof in C. F. A. and Trunk Line Territory since such an increase must eventually come out of their proportions. They could not shift any portion of the increase to their connections on the south because such lines to the south of these connecting links could and probably would shift the routing to their direct or through St. Louis connections. I mean that any increase to the Western Trunk Lines via Kansas City would necessarily come out of the divisions of the Kansas City Southern and such lines as have no connections to St. Louis and which would make delivery to the Western Trunk Lines at Kansas City. In other words, this proceeding does not cover the territory beyond St. Louis for the purpose of determining whether there will be any increase in the divisions over to C. F. A. Territory because the direct St. Louis lines make delivery to the C. F. A. lines at that point. If they should deliver to a line like the C. & E. I. for instance, they would still have to allow regular

division beyond St. Louis and the C. & E. I., as stated by the Examiner, would get their division out of the Eastern Lines, that is they would receive a proportion of the division from St. Louis via Chicago and no increase being involved in the route through St. Louis we could not expect the originating line to voluntarily join in the increase allowed the lines between Kansas City and St. Louis. They would probably refuse to do it (Tr. 5591-5592).

As stated the originating lines in Oklahoma, Arkansas, Texas and Louisiana have direct connections with one or [fol. 1187] more of the Southwestern Lines that reach St. Louis with their rails direct and these connections are generally at junction points, also reached by the Kansas City Southern or a junction point nearby. Service of the originating short and trunk lines is substantially the same regardless of line to which delivery is made and since distances largely fix the measure of their allowances we could not expect assistance from the originating lines in taking care of or sharing an increase in divisions of the Western Trunk Lines nor the divisions via the routes reaching St. Louis or points in eastern states via strictly Southwestern routes to St. Louis are not involved (Tr. 5592-5593).

Take as an example a car of freight originating at a point on the L. & A. Railroad destined to St. Louis. The L. & A. received 35 and 40 percent of the revenue to St. Louis or on the proportion south of St. Louis when destined beyond, the routing being via Winnfield, Natchez or Shreveport and the line other than the K. C. A. via such through route no change is proposed nor do we consider the allowances should be changed, yet the K. C. A. if it expects to handle that business would have to make the same allowance to the L. & A. out of the through rate and also make the proper allowance to the line between Kansas City and St. Louis ranging from 20 to 32 percent or restated, L. & A. 35 percent, direct St. Louis line 65 percent, or via the K. C. S. route L. & A. 35 percent, K. C. S. 40 percent, Wabash 25 percent or 32 percent as the case may be, that being the present division for the Wabash. If originating line has a greater haul the result might be L. & A. 40 percent, direct line to St. Louis 60 percent, or via K. C. S. route L. & A. 40 percent, K. C. S. 40 percent, Wabash 20 percent, present division for Wabash. Now the mileages originating line

[fol. 1188] might range from 100 to 150 miles; K. C. S. 560 miles, Wabash 278 miles. If handled via direct St. Louis line the delivering line service would probably be similar to that of the Kansas City Southern and they would receive as their revenue the sum of the K. C. S. and Wabash jointly. In other words the distance of the direct route from Shreveport to St. Louis, I believe the Cotton Belt distance is 593 miles, the Wabash 278 miles and we would meet the competition of the direct line. The mileage from Shreveport to Kansas City is 560 miles (Tr. 5593-5594).

Another example would be in connection with the divisions to and from Fort Smith & Western points, the other line basis being mileage with a minimum division of 30 percent for the originating short line and a similar basis applies to certain other lines except as to the size of their minimum. In an instance where they receive 30 percent of the divisions to either Kansas City or St. Louis, and in case of shipment to C. F. A. and beyond, the comparison would be Fort Smith & Western 30 percent, direct St. Louis line 70 percent. Via Kansas City, Fort Smith & Western 30 percent, K. C. S. 35, Wabash 35, or present division for the latter. The only change contemplated would be in case of the route via Kansas City. Any increased divisions to Western Trunk Lines via such route would come out of K. C. S. or other intermediate line. The Fort Smith & Western would certainly resist any effort looking toward a contribution from them. The same example would apply with equal force to a local movement to St. Louis. The movement would be in case of route via K. C. S., Fort Smith & Western 250 miles or less, K. C. S. 316 miles, Wabash 278 miles. The percentages I am referring to are the percentages of the *W*outhwestern Lines out of the joint rate, or in some instances the rate might be made on the combination. It would be just the same though, that the result would be [fol. 1189] the same. The combination, of course, is not involved. The above examples illustrate conditions that are ever present and cannot be changed without more or less disaster to the Western Trunk Lines as well as the Intermediate connecting link carriers, such as the Kansas City Southern (Tr. 5594-5595).

(The map described by the witness and referred to as Exhibit A-234 was thereupon received in evidence as Exhibit A-234.)

[fol. 1190] Exhibit A-235 is also a blue-print map showing the same information with reference to the routes through Chicago and include the routes to Chicago serving Chicago Territory direct, and illustrate the conditions with reference to the handling of this business via the through route to Chicago via Kansas City and will apply to any shipments that are delivered to connecting lines at Kansas City. The Santa Fe and C. R. I. & P. serve the Southwestern Territory with direct rails to and from Chicago and to and from the Southwestern States and other Southwestern Lines must compete with these lines, and in addition the Illinois Central, for traffic to and from Chicago Territory and points beyond routing via Chicago (Tr. 5595-5596).

The lines find it necessary and very expensive at times to allow originating lines revenue corresponding to that received by them on traffic delivered to the through lines, having their own rails to and from Chicago, and also allow Western Trunk Lines a greater division to or from Kansas City than to or from St. Louis, amounting to differences ranging from 10 to 20 percent of the through rate. This difference in divisions is not reflected in the differences in the distances as between the service performed by Southwestern Lines to or from Kansas City as compared to service to or from St. Louis.—It is true the Western Trunk Lines perform a somewhat greater service between Kansas City and Chicago as compared to St. Louis and Chicago. The Southwestern Lines, however, have such a condition with reference to movements to or from southern Arkansas and Louisiana as a whole. Notwithstanding this the Southwestern Lines are always compelled to pay a greater division to or from Kansas City than to or from St. Louis to the Chicago Territory or beyond. As previously stated this difference generally is taken from the revenue of the [fol. 1191] Southwestern Lines, making delivery to the Western Trunk Lines at Kansas City (Tr. 5596).

Taking as an illustration the movement between Chicago and Alexandria, La., if a shipment moves via St. Louis, the short line distance from Chicago to St. Louis is 278 miles. From St. Louis to Alexandria 589 miles. The short line

distance from Chicago to Kansas City is 452 miles and from Kansas City to Alexandria 560 miles; via the Kansas City Southern to Shreveport; and 120 miles for the T. & P. from Shreveport to Alexandria. Another example from Chicago to Lake Charles, the distance from Chicago to East St. Louis is 278 miles, from East St. Louis to Lake Charles via the Missouri Pacific rails is 689 miles. From Chicago to Kansas City 452 miles, from Kansas City to Lake Charles 741 miles. It will be seen that while it is true the distance from Chicago to Kansas City is greater than it is from Chicago to St. Louis, yet so far as the service to Kansas City is concerned you can take southern Arkansas, in fact any territory south of Texarkana, Texas, on the Kansas City Southern and any territory east of the Kansas City Southern in either Arkansas or Louisiana, the distance from Kansas City will be the same or greater than from St. Louis. When I say the same, I of course know that so far as the distances on the Kansas City Southern are concerned, there might be a few miles difference, that is the distance from St. Louis might be fifteen or twenty miles shorter than from Kansas City but for all practical purposes they are about the same, and it means that any increase in the revenue allowed to Kansas City, where greater than to St. Louis, the difference must all come out of the connecting link road or substantially so (Tr. 5597-5598).

I would say that our situation in that respect south of Kansas City is different from the situation of the Northwestern because the Northwestern roads are getting these pyramid divisions.

[fol. 1192] As a matter of geography we have no railroad to St. Louis and neither have they. Our difficulty lies in the fact that our railroad does not reach St. Louis just like their railroad don't run to St. Louis either but that is not any reason why we should increase these divisions at our expense. In other words, it would be just that much more of a burden for us to bear. Our service is just as great as the Milwaukee or greater in comparison (Tr. 5598).

We don't have to use the C. M. & St. P. or the C. G. W. to get over C. F. A. Territory. That is true of other lines which reach Kansas City from the Southwest and don't reach St. Louis. The point I am trying to bring out is this: We have similar conditions north of the River and similar

conditions south of the River, but it is the lines south that are always standing the difference and I am trying to make it clear that that is what we are doing. It is a very difficult thing to explain but that is a fact. The conditions are the same in one respect but so far as the actual divisions are concerned they are entirely dissimilar for the reason as stated that the Southwestern Lines are standing the whole thing. The Western Trunk Lines certainly have not allowed us enough in some places to do that, and we are having business run around us at different times, business that we have handled for years, wherever they change up the division, why it goes via some other route (Tr. 5599).

We don't have to buy business from the originating carriers. We expect the other carriers to be fair with us, but we are not in the same attitude toward our connections as the Western Trunk Lines are to us, because we realize it won't do us any good. If we expect to get any of the business via these lines we have to meet the allowances made by competing trunk lines in the Southwest, in order to take the [fol. 1193] business via the route through Kansas City and that means a shrink in our subdivision of the revenue south of Kansas City. Now the Southwestern Lines, and as far as I am concerned the Western Trunk Lines, have dealt with this proposition for 40 years and it is very much like water seeking its own level. If we had a large enough division south of Kansas City we would be able to meet the situation and still have a fair revenue for the Kansas City haul. We are not taking anything away from the Western Trunk Lines. They have been taking it away from us for years (Tr. 5600-5601).

Our trouble is not due to the fact that two lines are trying to compete against one line. That is not the trouble at all. It is the peculiarity of having two different groups of railroads in two different territories. Now here's another thing that occurs to me and that is Mr. Towner was asking Mr. Sickel about the divisions from Western Chicago Territory in Iowa and there is a good illustration that we can use to indicate one trouble, I don't call it a trouble particularly, we are not in the attitude of complaining, but the fact is that Chicago Territory starts in just north of Des Moines, Iowa, and reference is made to the fact, I believe, that some of those combinations is as much as 360 and 375 miles from

St. Louis, that being a greater difference than the 209 mile average from Chicago to St. Louis. Now from that identical territory, you take the first point about ten miles north of Des Moines. We allow Chicago division from that point. Your distance from Kansas City to Des Moines is 218 and 220 miles. The distance from the part of the territory cannot be more than 250 miles and yet the divisions to Kansas City on that same stuff going to Shreveport is 40 per cent compared with 30 per cent to St. Louis. It is 30 per cent to [fol. 1194] Kansas City as compared to 20 per cent to St. Louis for the shorter distances (Tr. 5601-5602).

The point I am trying to bring out is that the Northwestern, The Milwaukee, the C. G. W., are not in any different position from what we are in and what I can't understand is why we should always bear the brunt of the thing. That is what I have been trying to make clear. It is true that is argumentative, but I don't know how you would get it over otherwise. The divisional situation of the Southwestern Lines that reach Kansas City but not St. Louis and the Western Trunk Lines which reach Kansas City but not St. Louis is not the same (Tr. 5602-5603).

(The blue-print map described by the witness was thereupon received in evidence as Exhibit A-235.)

[fol. 1195] Cross-examination:

A larger percentage of the Kansas City Southern's traffic originates or finds destination on its line. I should say more than half of it (Tr. 5603).

The lumber divisions were first applied through Thebes on substantially the combination factors to and from the crossing. When the traffic began to move through Kansas City we applied the same divisional basis. That is south of Kansas City. We cut the divisions accepted south of Cairo to the territory east of the Mississippi River. The lines east of Kansas City accepted the same revenue from Kansas City as was accepted north of the Cairo group which of course includes Thebes to the territory in Illinois and Wisconsin. It is true that at the present time the lumber divisions via Kansas City are on a substantial rate prorate based upon the factors that originally went to make up the true rate via Cairo with the exceptions I have

stated, certain Wisconsin Territory on the Milwaukee Line (Tr. 5603-5604).

The Chicago rate was extended to the Milwaukee by the C. M. & St. P. Railroad. By reason of the fact that the Milwaukee put the Chicago rate and divisions into Milwaukee at such necessary intermediate points to that extent the Chicago divisions apply to Milwaukee. Our executive officer at the time, Mr. Caulkins, I believe, took it up with our executive officer and it seems that the Milwaukee had some kind of an agreement with the Milwaukee people that they were to put in the Chicago rate to Milwaukee. Our executive officer probably felt that since they were going to take the Chicago division there wasn't any reason why he should particularly object to the executive officer of the Milwaukee completing that arrangement. It was Mr. Keeley instead of Mr. Caulkins. Mr. Caulkins used to sit in occasionally and help things with reference to [fol. 1196] these rates and divisions on lumber up in Iowa. At that time he was Assistant General Freight Agent of the Milwaukee and was very well informed on rates and divisions (Tr. 5604-5605).

Beginning on page 224 of the record, Mr. Buhrle mentioned several of the Kansas City Southern Division Sheets that he had been unable to get copies of and I will now furnish the copies.

Mr. Towner: I will waive the copies if I can have the list.

The Witness: I will give you the list.

Mr. Davis: The list which you are furnishing, Mr. Mills, will show the actual division sheets which will cancel many of the division sheets called for by Mr. Buehrle, will they not?

A. Yes, sir (Tr. 5605-5606).

(The division sheets referred to by the witness were thereupon received in evidence as Exhibit A-236.)

[fol. 1197] CHARLES W. MORROW was thereupon called as a witness and testified as follows;

Direct examination:

I am Chief Divisions Clerk in the General Freight Office of the Texas and Pacific Railway at Dallas, Texas, having been with the Company since September, 1924. Previous to that time I was in the General Freight Department of the Alabama and Vicksburg and the Vicksburg, Shreveport and Pacific Railway from July, 1917, with the exception of one year during the period of Federal control. During that year I was in the General Freight Office of the L. & N. Railroad at Louisville (Tr. 5607).

The investigation of divisions, initiated by the Commission in I. C. C. Docket No. 15234, brings in the question of inclusion or exclusion of Texas & Pacific Railway local stations situated on the Port Allen and Indian Village branches and on the main line from Addis to Gouldsboro, La., inclusive, or the stations from and to which both rates and divisions were originally established on basis of rates from and to New Orleans, La. (Tr. 5607-5608).

By agreement between the Western Trunk Lines and the Southwestern Lines, New Orleans, La., proper, and points on the west bank of the Mississippi River within the switching or port limits of New Orleans were excluded from the case. Because of change in rates from the New Orleans basis to the interior Louisiana basis, the Southwestern Lines have declined to exclude those points on the main line and branches of the Texas & Pacific Railway outside and north of the recognized New Orleans switching or port limits, hence the necessity for the consideration of divisions from and to such stations. For convenience, reference is made to Official List of Open and Prepay Stations, No. 35, issued by F. A. Leland, Agent, his I. C. C. [fol. 1198] No. 1796, effective January 15, 1926, in which the T. & P. Ry. Louisiana stations now involved are listed opposite Items Nos. 1660 to 2028, inclusive, 2580 to 2905, inclusive, and 2920 to 2975, inclusive. These are main line stations from Addis to Bogarts, inclusive; Port Allen branch stations from Olivia Plantation to N. O. & N. W. connection, inclusive, and Indian Village branch stations from Schwing's Spur to Miller's Spur, inclusive. The Texas & Pacific Railway Company also desire the inclusion of its main and branch line stations in Louisiana,

from which rates are now based in relation to rates from New Orleans (Tr. 5608-5609).

Although the matter of dividing rates on traffic from and to New Orleans proper, is not now within the scope of the investigation, the reasonableness of the New Orleans divisions is questioned insofar as the basis is applicable for dividing rates from and to the T. & P. local stations hereinbefore designated. The Commission's decision in the Barge Line Case, 11893, 77 I. C. C. 317, expressed at Page 358, implies that rail carriers are not fairly entitled to divisions where same have not been largely determined by the relative amount and cost of service rendered, but obtained in substantial part by considerations extraneous to the service, such as the protection of the long haul, diversion of the traffic to other gateways, etc. It follows that in order to determine whether or not divisions are just, reasonable and equitable, it must be found, among other things, just what relationship the divisions have to the rates that would be divided, and just what brought about the measure of the division. This requires some knowledge of the rates themselves and the reason for their being; therefore, I will endeavor to give an outline of my investigation of the history of the basic rates obtaining at the present time (Tr. 5609).

[fol. 1199] As is well known, the prevailing rates to and from Texas & Pacific Railway stations in Louisiana, Bogarts and north, resulted from re-adjustments of rates in compliance with the Commission's orders in Memphis-Southwestern Investigation, Docket 9702, 55 I. C. C. 515, in conjunction with rates to, from and between points South of the Ohio River, including the Mississippi Valley, I. & S. Docket No. 1303, 64 I. C. C. 307. Present rates to and from New Orleans were established on the so-called dry-land basis under orders of the Commission in the I. & S. proceedings. Prior to the establishment of the dry-land basis, effective April 1, 1922, the rates to and from New Orleans reflected the rates of the original adjustment that was made many years before by joint committee action; and, in turn, the rates to and from the Louisiana points on the Texas & Pacific Ry., Ferriday and south, through Addis to Gouldsboro, were on this water-compelled basis. In the division of these Louisiana points rates lines beyond the

Ohio and Mississippi River crossings, and beyond the Missouri River, received New Orleans revenue, while other or interior Louisiana points were on the Texas basis of divisions, excepting such points as were in what was known as Shreveport-Alexandria group. With respect to the latter: departure had been made from the original Texas basis of divisions, due to the peculiar construction of the so-called triangle rates, fully explained in the Memphis-Southwestern proceedings (Tr. 5609-5610).

By a glance at the map of the Texas & Pacific Railway, which I now present as Exhibit A-237, the proximity of Southern Louisiana stations to the Mississippi River can be readily seen and it is evident that with such proximity, the Texas & Pacific Railway could not possibly carry rates higher than those of the steamboat lines to and from the points served commonly by rail and by water (Tr. 5610-5611).

[fols. 1200-1200½] (The map described by the witness was thereupon received in evidence as Exhibit A-237.)

[fol. 1201] We know that New Orleans basis of rates applied to the T. & P. Ry. local stations, Addis and south, as early as November 27, 1890, and probably before, as records contain copy of Wabash Tariff No. 3873, effective on the date named, publishing that basis. Therefore, the same compelling forces and controlling influences prevailed alike at New Orleans and at the river points served by the Texas & Pacific Railway, and the history of the Mississippi Valley rate adjustment fully covers all. The history of the Mississippi Valley rate adjustment has been given on more than one occasion and is familiar to the Commission. In the matter of applications for relief under the long and short haul provision of the Act to Regulate Commerce, as amended June 18, 1910, filed on behalf of the Mississippi Valley lines, a very comprehensive history of water transportation in the Mississippi Valley was introduced for the purpose of showing to what extent the freight rates of the rail carriers were influenced by water competition. The result was the continuation of the Mississippi River points rates under the permission granted by the Commission's Fourth Section Order, No. 3866 (Fourth Section Violations in the Southeast, 30 I. C. C. 153), the Commission finding

at that time, about 1911, actual and potential water competition sufficient for the rail lines to take into consideration in the establishment of rates (Tr. 5611-5612).

The history mentioned began with the discovery of the Mississippi River by DeSoto and the early navigation by white settlers, including an account of the first recorded freight shipment about 1705. Steamer navigation upon western waters began with the "New Orleans," which left Pittsburgh on October 20, 1811, and reached the City of its name in January, 1812. Accounts of the development of transportation prior to the Civil War were recited, including the building of railroads, as well as the operation of [fol. 1202] steamboats, and a resume of conditions under which the Mississippi Valley rates were established may enable the determination of divisions properly applicable to the present adjustment (Tr. 5612).

During the period of river navigation prior to 1858, there was little if any uniformity in rates or in service, but in 1858 there was an arrangement made between the owners of the steamers operating the Mississippi and Ohio Rivers by which a regular service was established and by which rates on freight were arranged on uniform basis among themselves and with the railroads serving the interior markets and territories. St. Louis, Mo., having developed into a town of importance, the Company operating the "Railroad Line," or the St. Louis & New Orleans Packet Company, placed in the service ten of the largest and finest steamers then on western waters, and arrangements were made with the Illinois Central Railroad at Cairo, and with the Ohio & Mississippi Railway at St. Louis, by which passengers and freight were contracted to all points reached by either line or boats (Tr. 5612-5613).

A similar line, composed of ten steamers, was run from Louisville to New Orleans, same being known as the "Lightning Line." Like arrangements were made by this Lightning Line with its existing railroad connections. At Cincinnati a good line was organized on the same basis as the Louisville & New Orleans line, it being known as the Cincinnati and New Orleans Express Line, and was also composed of ten boats. These were what was known as "short" boats and could pass the locks in the Louisville Canal. A year later, or in 1859, there was organized to run

between St. Louis and Memphis, a line of boats known as the Memphis & St. Louis Packet Co. This line was in addition to the "Railroad Line" and was finally merged into the St. Louis and Vicksburg Line. As the railroads extended their lines south, this packet company gradually [fol. 1203] withdrew from the Memphis territory and extended their line to New Orleans, running part of their boats to Vicksburg and part of them to New Orleans under the style and name of "Anchor Line" (Tr. 5613).

Such rail lines as existed at the time these boats were operated were forced to adopt the water rates, or else go out of the traffic, and the boats not only fixed the rail rates between ports but set the rates from the river crossings to the interior. By this means the Louisville basis of rates was extended to St. Louis and the Louisville-St. Louis relationship has been maintained even down to the present day. (See I. & S. 1303, 64 I. C. C. 307 at Page 314.) In passing it might be well to note that situation of Louisville at the Falls of the Ohio had established that place as a pivotal or basing point long before St. Louis became a river town of importance. The Civil War of 1861-1865 disrupted the transportation systems of the entire south, both railway and water, but immediately after the close of the war, according to the authorities, there was great activity among the boats and among the railroads for the re-establishment of transportation. The steamboats and railroads co-operated in this effort to bring about reconstruction and as early as 1870 the railways and steamboats entered into joint traffic agreements for the establishment of through rates between river points and points in the interior. It would appear that these traffic agreements did not at first provide for fixed differentials under all-rail rates in the establishment of port to port rates, but made provision for the division of the business only. This is evidenced by the fact that on first all rail shipment from St. Louis to New Orleans, same consisting of large consignment of flour that moved in 1871 via St. L. I. M. & S. Ry., M. & O. R. R. and what is now L. & N. R. R., the boat rate of 75 cents per barrel was assessed (Tr. 5614-5615).

[fol. 1204] At a later date the competition of the boat lines forced the rail carriers into an agreement whereby the boat lines were conceded certain fixed differentials under the rail rates applied from the Ohio River crossings and

St. Louis to the lower Mississippi River crossings and Gulf ports. In one of the hearings held by the Commission at New Orleans, in the application for relief from the long and short haul provision of the Act, Witness Compton filed, as his Exhibit No. 6, copy of memorandum of agreement made at Cincinnati, October 25 and 26th, 1877, between certain boat lines and railroads whereby the boat lines were accorded differentials from 35 cents per 100 pounds on first class to 5 cents per 100 pounds on fifth class, there being only five classes at the time, under the all-rail rates from Cincinnati to New Orleans. As the number of railroads increased, the competition was intensified, and the rivalry between localities also increased as the towns and cities became business centers of importance. Pittsburgh and Chicago competed for the sale of manufactured iron articles, while Cincinnati and Chicago were rivals for trade in other manufactures, both Louisville and Cincinnati competing with St. Louis and Chicago, and between themselves, for the business of the lower Mississippi Valley (Tr. 5615).

These conditions brought about the group relationship of rates, and as the entire territory north of the Ohio River, including the cities on that stream, were in strong competition with Eastern Seaboard cities served by both rail and water carriers to the Gulf ports, the rates established were necessarily low. It followed, naturally, that direct lines of rail carriers could set the all-rail rates, in relation to the circumstances and conditions under which rates could be operated, thus what is now the Illinois Central Railroad became the most important rail factor in the Mississippi [fol. 1205] Valley, having the short line from Chicago to New Orleans. In sequence, the tonnage flowed to this line of road and enabled it to control the largest volume of traffic moving to and from the Valley. Likewise, as rate-making line, the Illinois Central was in position to make the divisions of joint through rates, and was no doubt responsible for all the freight rate divisions now operated on present Illinois Freight Association and Western Trunk Line territories traffic to and from the Mississippi Valley. Long before the New Orleans line of the Texas & Pacific Railway was thought of, the river steamers served the various river landings on the west bank of the Mississippi River, from Ferriday to Gouldsboro, La., and when the line of railroad was built from Gouldsboro, up the west bank of the Mis-

sissippi River, the New Orleans basis of rates as fixed by the steamers was found already made for operation by the railroad if it intended to participate in the freight traffic to and from the competitive river towns, and even the adjacent points not actually situated on the Mississippi (Tr. 5616-5617).

This adjustment existed at the very beginning of the establishment of rates by the T. & P. Ry. in about 1883, and was continued until April 1, 1922. Likewise, in the division of all-rail rates to the T. & P. Ry. local stations, the same influences that caused the establishment of New Orleans rates caused the operation of the New Orleans divisions. In the extension of the Port Allen branch to Ferriday, about December, 1903, the New Orleans rates and divisions were automatically extended to the new stations which were also served by the water carriers. During the long period of time when the so-called Mississippi Valley adjustment was in its formative stages, and subsequently until the decision of the Commission in the Memphis-Southwestern case holding that the water competition was no longer controlling with respect to the river-point rates, the adjustments in [fol. 1206] interior intermediate territory, both in the Mississippi Valley and in the Southwest, was never directly affected by the level of rates fixed at the river points in competition with steamboats plying the Mississippi, because a liberal measure of fourth section relief had always been accorded against the low river-point rates (Tr. 5617).

Under those conditions the low river-point rates were not and could not be used in any direct way to measure the rates to the interior intermediate points, nor were the divisions to the intermediate points in any way in relation to those applicable to the New Orleans rate points; but, as previously mentioned, the interior local points were on Texas percentage basis with exception of particular points in the Alexandria-Shreveport group. Again with reference to the latter points; attention is called to the fact that under present adjustment of rates the old Shreveport-Alexandria-Monroe triangle has disappeared and the reasons for the divisions in relation to the triangle rates no longer exist. In consequence, we have no Shreveport-Alexandria group divisions that have, to quote the Commission's language, "been largely determined by the relative amount and cost of service rendered, but obtained in substantial part by con-

siderations extraneous to the service, such as the protection of the long haul, diversion of the traffic to other gateways, etc." Getting back to the rates, themselves, now that reason for their being has been found, I will name the basic rates of the Mississippi Valley adjustment that was of such long duration, or the rates maintained from time of original establishment by joint committee action until superceded by the "dry-land" basis fixed by the Commission, effective April 1, 1922 (Tr. 5617-5618).

As it is well recognized that commodity rates are established for the purpose of moving the traffic, "carriers being [fol. 1207] willing to accept low rates rather than to receive no revenue at all," to quote in effect Commissioner Eastman, in Southern Class Rate Investigation, I. C. C. Docket 13494, I will deal with the class rates only, as it is also a well recognized principle that class rates contain all the elements of cost and service and represent full 100 per cent of such value. Classes E, H and F being obsolete, the first two covering beer and whiskey and the latter being rating on flour, in barrels, now rated Class C, I am showing only the first ten classes, as governed by Southern Classification ratings (Tr. 5618-5619).

Although rates were in effect for many years prior to August and October, 1896, tariffs covering were not available, but tariffs of that time will suffice. Joint Freight Tariff I. C. C. No. 22, effective August 15, 1896, issued by The Southern Freight Association, contained the following rates, from St. Louis, Mo. and East St. Louis, Ill., to New Orleans, La. Class 1, 90 cents per 100 pounds; Class 2, 75 cents; Class 3, 65 cents; Class 4, 50 cents; Class 5, 40 cents; Class 6, 35 cents; Class A, 25 cents; Class B, 25 cents; Class C, 25 cents; Class D, 20 cents. As before stated, Louisville-St. Louis rates were basic and to make rates from other origins differentials were added to the Louisville-St. Louis rates. Such rates were published from Chicago and from Milwaukee, the former on scale of 20 cents, first class, graduating down to 6 cents, class D, while Milwaukee rates were made by adding to the Chicago rates, 6 cents first class with graduation down to 2 cents at Class D (Tr. 5619).

The rates so constructed and published in Mississippi Valley Freight Committee Joint Freight Tariff No. 1, I.

C. C. Advice B-46, effective October 1, 1896, were: From [fol. 1208] Chicago—Class, 1, $1.10 per 100 pounds; Class 2, 90 cents; Class 3, 75 cents; Class 4, 58 cents; Class 5, 47 cents; Class 6, 41 cents; Class A, 31 cents; Class B, 31 cents; Class C, 31 cents; Class D, 26 cents. From Milwaukee—Class 1, $1.16 per 100 pounds; Class 2, 95 cents; Class 3, 79 cents; Class 4, 61 cents; Class 5, 49 cents; Class 6, 43 cents; Class A, 33 cents; Class B, 33 cents; Class C, 33 cents; Class D, 28 cents.

The rates to New Orleans also applied to points on the Texas & Pacific Railway, as specified in tariffs, these stations being situated on the line paralleling the Mississippi River from New Orleans to Port Allen, via Addis, La.

In the division of the rates from Milwaukee, the lines north of Chicago received a proportion of 10 per cent and the remainder was sub-divided over East St. Louis by first deducting 2 cents for Cairo bridge toll, which accrued to lines south, and allowing lines north of East St. Louis 33 per cent. Available files do not show how the divisions were arrived at. In the division of Chicago to New Orleans rates, that's the basis used to our local stations, the lines north of East St. Louis received 33 per cent, after deduction of 2 cents Cairo bridge toll for southern lines (Tr. 5620).

Available files do not indicate how this division was arrived at, but it so happens that Cincinnati to New Orleans divisions over East St. Louis are exactly the same, and the construction of the latter was on basis of short-line distances of 340 miles east of East St. Louis in conjunction with I. C. R. R. short-line distance of 700 miles from East St. Louis to New Orleans. In any event the Chicago division represents 340 constructive miles for the lines north, although short line distance of C. & A. Ry., as shown in its Distance Tariff, I. C. C. A-1455, is 278.5 miles.

A statement showing the short-line distances was there-
[fol. 1209] upon offered in evidence as Exhibit A-238 (Tr. 5621).

(The statement referred to was thereupon received in evidence as Exhibit A-238.)

[fol. 1210] The average distance from Chicago to East St. Louis, using the lines of the C. & A., C. & E. I., C. B. & Q.,

I. C. and Wabash, direct lines, is only 297 miles, while the average distance from East St. Louis to New Orleans, using eleven practicable routes over which traffic now moves in volume, is 808 miles. It is thus evident that divisions north and south of East St. Louis were not constructed on basis of average distances for all routes, but indicates that short-line, I. C. R. R., was instrumental in the fixing. Likewise, Springfield has a constructive distance of 300 miles from East St. Louis, as compared by 700 miles, short line, south of East St. Louis, as the lines north receive 30 per cent on Springfield to New Orleans traffic. These points are only representative of the divisions operated as full line of percentage divisions are published by the C. & A., C. B. & Q., and other roads engaged in the New Orleans business (Tr. 5621-5622).

With the exception of Class B, rates were maintained as constant until June 25, 1918, at which time an increase of 25 per cent was made under authority of General Order No. 28, of the United States Railroad Administration. Again, on August 26, 1920, a further increase was granted by the Interstate Commerce Commission, in Increased Rates, 1920, (Ex Parte 74), 55 I. C. C. 220. The rates so increased were continued until April 1, 1922, when cancellation was made in compliance with the Interstate Commerce Commission's order of November 15, 1921, as amended, in Investigation and Suspension Docket No. 1303, 64 I. C. C. 306. The new rates to New Orleans were upon so-called "dry-land" basis, as the Commission held that water competition was no longer controlling with respect to the river point rates; and under the Commission's decision the Texas & Pacific Railway was at that time prohibited from participating in the [fol. 1211] New Orleans rates, unless the Mississippi River point rates were to be applied as maxima at the intermediate points. Inasmuch as that would have meant substantial revenue losses to the Texas & Pacific Railway and other Southwestern Lines, and the Southwestern carriers being in no condition to stand such revenue losses, it became necessary for the west-side lines to go out of the New Orleans traffic. At this time rates to the Texas & Pacific Railway local stations, Ferriday and south, were changed to the interior Southwestern adjustment, under I. C. C. Docket

9702, in order to conform to the Commission's decision. The rates to the local stations now involved for the first time appeared in a Southwestern tariff, being published in S. W. L. Tariff No. 58-M, Agent F. A. Leland's I. C. C. No. 1086, effective April 1, 1922. It was thus that relationship ended between the Texas & Pacific Railway local stations and New Orleans (Tr. 5622-5623).

While it is true that all rates in the Mississippi Valley have been placed upon a dry-land basis, no lower rate being permitted to the river points than to the interior intermediate points, distance considered, the Commission found that Southwestern carriers were in no condition to operate a level of rates prescribed for the Mississippi Valley lines in the readjustment of the dry-land basis. In consequence, the Commission's Fourth Section Order No. 7542, amended by orders, the latest dated July 1, 1925, permitted to a limited extent the operation of routes west of the Mississippi River, and this fourth section relief to the Southwestern carriers, in the participation in rates to and from New Orleans, is indicative that rates which might suffice for the Illinois Central Railroad and other strong lines serving the Mississippi Valley, did not meet the requirements of the Southwestern carriers. In the first place, the Illinois Central has long enjoyed a volume of traffic much greater per [fol. 1212] mile of road than the average density in southwestern territory, and the financial condition of that road is, of course, very much stronger than that of the average southwestern line (Tr. 5623-5624).

In the second place, as is shown by the tonnage statistics presented by all carriers at the instance of the Commission, in I. & S. 1303, the Illinois Central was shown to be, and probably will continue to be, the chief participant in traffic to the large cities located on the Mississippi River. The traffic handled by the southwestern lines to these river points, the principal one of which is New Orleans, while important, is small by comparison with that handled by the Illinois Central. In the Mississippi Valley case, above referred to, it was shown that traffic density of the Illinois Central System was 266.7 per cent of the traffic density of the entire southwestern lines as a whole. The official re-

ports of the Louisiana Public Service Commission, extract of which I wish to present as Exhibit No. 239, covering operating statistics of railroad operated in the State of Louisiana during the years of 1923 and 1924, serve further to show the disparity (Tr. 5624).

(The statement described by the witness was thereupon received in evidence as Exhibit A-239.)

[fol. 1213] Although the Illinois Central Railroad (not including the Y. & M. V. R. R.) operates an average mileage of road of 88.14 miles against 782.66 like mileage of the Texas & Pacific Railway, the freight revenue for the average per mile of road of the Illinois Central R. R., in the year ended December 31, 1923, was $29,697, while like revenue of the Texas and Pacific Railway was $9,209. For the year ended December 31, 1924, the comparative figures were: Illinois Central R. R. $30,756, and Texas and Pacific $8,760. The total tons of revenue freight for the year ended December 31, 1923, of the Illinois Central Railroad, was 5,149,290, while that of the Texas and Pacific Ry. was 4,000,390; and for the year ended December 31, 1924, the total tons of revenue freight were: Illinois Central R. R. 4,708,026, and Texas & Pacific 4,036,464. The ton miles of revenue freight, average per mile of road, for the year ended December 31, 1923, were Illinois Central R. R. 4,548,541 tons, Texas & Pacific 586,252 tons. For the year ended December 31, 1924, the Illinois Central R. R. ton miles of revenue freight, average per mile of road, was 4,206,733 tons against Texas & Pacific 596,111 tons. It will be noted that while Illinois Central R. R. tonnage decreased slightly, and at the same time Texas & Pacific Ry. tonnage increased to some extent, the disparity in the density is self-evident. It will also be noted that statistics are based upon an average haul of 77.86 miles for the Illinois Central R. R., for the year ended December 31, 1923, and an average haul of 114.7 miles for the Texas and Pacific Ry. during same period (Tr. 5624-5625).

I have picked out the tonnage statistics. That is what I was after. The last line which shows that in 1923 the Illinois Central ratio of expense to revenue is what they reported to the Louisiana Public Service Commission. I haven't any idea whether it is correctly reported because

[fol. 1214] I don't know anything about it. I am not vouching for these figures. They are just from the official reports to the Louisiana Public Service Commission. I know the Texas & Pacific tonnage is correct. I had that verified. I don't know anything about the I. C. Railroad. The exhibit states where I got the figures. The per ton mile earnings of the I. C. Railroad compared with the T. & P. Railway are as follows: December 31, 1923: L. C. Railroad 6.53 mills, T. & P. Railway 15.71 mills; December 31, 1924: I. C. Railroad 7.31 mills, T. & P. Railway 14.69 mills (Tr. 5626-5627).

These Louisiana statistics, in conjunction with those presented by the carriers in fourth section applications, covered by F. S. O. 7542, in which it was found that in 1921 the I. C. Railroad revenue tons per mile of line were 2,309,489, as compared with 820,714 for the west-side carriers, makes it clear that the Illinois Central is the predominating influence in the Mississippi Valley adjustment, and was responsible for the depressed rates that prevailed for so many years, being able to operate such depressed rates profitably by reason of the large volume of traffic it enjoyed. Such being the case it is logical to conclude that divisions fixed by the Illinois Central Railroad, to suit its own needs, do not meet the requirements of the southwestern carriers, or in other words, to again use in part the language of the Commission: "The (Western Trunk Line) carriers are not fairly entitled to divisions where same have not been largely determined by the relative amount and cost of service rendered, but obtained in substantial part by considerations extraneous to the service, such as the protection of the long haul, diversion of the traffic to other gateways, etc." This also applies to the division of rates from Interior Louisiana points, and from Texas Gulf Ports, where the New Orleans basis of [fol. 1215] rates must be operated under forces of necessity, such as observance of fourth section, commercial conditions that require maintenance of rates crystalized in the old adjustment, etc., as explained by other witnesses in this case (Tr. 5627-5628).

These interior Louisiana points to which I have referred now take the 9702 basis of rates. One of my positions is that in view of the position of the Illinois Central Rail-

road, these interior Louisiana points should not be treated as stations on the Illinois Central Railroad. They should be treated as stations in Southwestern Freight Bureau Territory where the rates, generally speaking, are on a much higher level than in this Mississippi Valley (Tr. 5628).

C. C. DANA was thereupon recalled as a witness and testified as follows:

Direct examination:

As I recall during the progress of my previous testimony there was a suggestion to the effect that as the distance increased the revenue and rate per ton mile decreased and the thought at least conveyed was that that was universally the case. Now that may be true as to the progression of rates in a territory where transportation conditions are similar, cost of service is the same and the rate levels are the same, but when you project a rate across the boundary lines of distant groups it will be found that that statement is not correct. As an illustration of that I want to offer my Exhibit No. A-240. The distances on this exhibit are taken from Mr. Parson's Exhibit A-77. In the first block there Chicago to East St. Louis, I have used the distance of the Chicago & Alton instead of the group basis for Chicago and Northern Illinois points because of the fact [fol. 1216] that there are included in Mr. Parson's Chicago and Northern Illinois Group many point which take a lower basis of rates to East St. Louis than does Chicago, and consequently I was forced to go to Chicago as my base point (Tr. 5628-5629).

It will be noted in the last column that the average revenue per ton in cents based upon the average of the ten class rates is 2.717 cents. In the next block, Chicago to Little Rock, Ark., via East St. Louis for a distance of 632 miles it will be noted the revenue per ton mile in cents based on the average ten class rates is 3.245 cents, approximately 5 mills per ton mile greater for the greater distance than is the average revenue per ton mile Chicago to East St. Louis. Following on down through via the East St. Louis route you will note the fourth block, Chicago to Okla-

homa City via East St. Louis, a distance of 825 miles where the average revenue per ton mile in cents is 2.979 cents as compared with 2.71 cents Chicago to East St. Louis. Those are through class rates. The same is true of Chicago to Ardmore via East St. Louis. That is to say that the revenue per ton mile is greater for the through haul than for the short haul and it is not until you get to Chicago, to the balance of Texas Common Point Territory via East St. Louis that you find a revenue per ton mile in cents which falls below the revenue Chicago to East St. Louis. Via Kansas City the same situation obtains, that is to say that the revenue per ton mile in cents for the greater hauls is in excess of the revenue per ton mile in cents for the haul from Chicago to Kansas City. And that is true notwithstanding the fact that the high level of rates are reduced because of the fact rather that the high level of rates south and west of East St. Louis or south and west of Kansas City is projected across the boundary line into Western Trunk Line Territory (Tr. 5630-5631).

[fol. 1217] Now I might have found other examples similar in character outside of the territory under discussion. The same situation is true with respect to the rates Chicago to the Missouri River as compared with the rates Chicago to Colorado Common Points, using the average distance from Chicago to the Missouri River of 500 miles and the average distance between the Missouri River and Colorado Common Points of 639 miles, both of which are the generally accepted averages for the distances in question. It is also true of the rate from Chicago to the Missouri River as compared with the rates from Chicago to Utah points—Utah Common Points, using the distance of 488 miles to Omaha and 990 miles, which is the Union Pacific's mileage from Omaha to Salt Lake City. During Mr. Press' testimony it was suggested by Mr. Towner as I recall it that the E. J. & E. had no place in the statements or exhibits which he presented. The E. J. & E. while it may be called a belt line, is so called in fact, is shown such cities as Waukegan, Elgin, Joliet, Chicago Heights, South Chicago all in the State of Illinois in addition to Gary, Ind., and other points across the Illinois-Indiana state line. It handles in connection with other Western Trunk Lines considerable traffic to and from these points of origin on

its line and it receives a percentage proportion of the proportion east of Kansas City or north of East St. Louis for its service, and there is no more reason why it should be excluded from the list of lines operating in Western Trunk Line Territory than any other road haul carrier (Tr. 5631-5632).

It may be possible to arrive at some general equation for the purpose of determining whether or no the present division of the aggregate revenue on all of the traffic as between the Western Trunk Lines as a whole and the Southwestern Lines as a whole is just and reasonable, but because [fol. 1218] of the many varying elements which should be taken into consideration in determination of just and reasonable division per se, it would be wholly impracticable and would result in grave injustice to apply such general equation to the divisions from or to any particular territory. The factors which originally fixed the divisions for Arkansas, Oklahoma, Louisiana and Texas were not the same nor are they now, from which it follows: should the Commission decide some change is necessary as to divisions between the various origin and destination territories must be considered on their respective merits (Tr. 5632).

(The statement described by the witness was thereupon received in evidence as Exhibit A-240.)

[fol. 1219] Cross-examination:

I thought the E. J. & E. served Elgin. I am willing to be corrected on that point. I cannot say whether the E. J. & E.'s principal business is that of the belt line in Chicago. I have never seen any segregation of the traffic; but if it were, it handles this traffic to and from C. F. A. Territory as a participating carrier with the Western Trunk Lines (Tr. 5632-5633).

(Here the Examiner inquired whether there was any more evidence on the part of the Southwestern Lines. Attorney Towner stated that he would have some evidence in rebuttal for the Western Trunk Lines and a further hearing at a future date was fixed by the Examiner.)

[fol. 1220] Chicago, Illinois, May 6, 1926.

Met pursuant to adjournment.

Examiner Disque called the hearing to order, stating that it was the final hearing in Docket No. 15234 (Tr. 5638).

B. F. PARSONS was thereupon recalled in rebuttal and testified as folows:

Direct examination:

At the previous hearings at Chicago and Galveston exhibits were introduced showing the general operating results of the Western Trunk Line and the Southwestern Lines, together with various traffic and operating statistics. To bring these exhibits down to date, I have prepared exhibit No. A-241 consisting of 19 pages. The first page is the cover. On page 2 are shown the railway operating revenues and expenses, net railway operating income and rate of return for the year ended December 31, 1925, as shown by reports of the individual carriers to the Interstate Commerce Commission. The grouping of lines as shown on this and succeeding pages of the exhibit is the same as shown on page 5 of exhibit A-54.

On pages 3, 4 and 5 are shown the railway operating revenues and expenses, net railway operating income, rate of return and freight revenues and expenses for the calendar years 1922, 1923, and 1924. This is similar, subject to certain corrections that have been made, to the corresponding data shown on page 2 of exhibit A-54, except that I have added the property investment, materials and supplies and cash as of the beginning of each year and have shown the rate of return. There is also shown for the years 1922 and 1923 the miscellaneous freight service revenue, which was not included in exhibit A-54 (Tr. 5638-5639).

[fol. 1221] Page 6 shows averages per mile of road for the year 1925 computed from the date on page 2. Pages 7, 8 and 9 are similar averages for the years 1922 to 1924 computed from the data on pages 3, 4 and 5. On pages 10 to 13, inclusive, are shown the property investment and net railway operating income of the individual carriers for the years 1922 to 1925, inclusive. Property investment in each case is shown as of the beginning of the year and the rate of return as shown on pages 3 to 5, inclusive, is computed on that basis. In Southwestern Lines Exhibit A-124 the rate

of return, except for the year 1925, is computed on the property investment at the close of the year. As additions and betterments made in any year are available for use only during a portion of the period in which the net railway operating income of that year is earned, it would appear that the investment in the property -t the beginning of the year rather than at the close affords the better basis on which to compute rate of return. This is the method followed in the carriers' exhibits in Ex Parte 87, as shown in Mr. Wettling's Exhibit 1, where in each case he has computed rate of return on basis of the property investment at the beginning of the year, and this is the plan followed by the Bureau of Railway Economics in their monthly and yearly bulletins of Railway Revenues and Expenses (Tr. 5639-5640).

Page 14 is a statement of railway operating revenues and expenses by individual roads for the calendar year 1925. On page 15 are shown for the year 1925 the freight revenue, ton miles revenue freight, revenue per ton mile and averages per mile of road. On page 16 are the details for each road from which the data shown on page 15 was compiled. On page 17 I have shown for the years 1922 and 1923 the miscellaneous freight service revenue. This data was not shown in exhibits A-52 and A-53 and is included here to [fol. 1222] complete the statistics for those years. On pages 18 and 19 I have set out certain corrections found necessary in my exhibits A-52, A-53 and A-54. In the course of his testimony at pages 4953 and 4955 of the record Mr. Press pointed out certain errors or omissions in the data in my exhibits. On these pages I have made appropriate corrections. In exhibit A-52 for the year 1923 the freight revenue of the M-K-T was shown as $20,522,029. This omitted the freight revenue for the first three months of the year of $5,200,000 (Tr. 5640).

In the same exhibit there was omitted from the tons and ton miles of revenue freight of the Chicago & Alton Railroad certain lapover figures which have not been included. In exhibit A-53 for the year 1922 there was an error in stating the freight revenue of the M-K-T Railroad of Texas. It was shown in the exhibit as $14,002,696 and should have read $14,602,696. These three corrections result in the changes in the averages shown on Pages 18 and 19 of this exhibit. Mr. Press also called attention to a slight differ-

ence in the freight revenue of the K. C. M. & O. Railroad and K. C. M. & O. Railway of Texas for the year 1923, as shown on page 26 of his exhibit A-124 and page 3 of my exhibit A-52. The amount shown by Mr. Press is $3,231,241 while I have used $3,233,086, a difference of $1,845. The figures I have used agree with those shown in the Interstate Commerce Commission's Thirty-seventh Annual Report on the Statistics of Railways in the United States for the year 1923. The difference is so slight as to have no appreciable effect upon the showing for the year. The data shown in exhibit A-241 will supersede entirely my exhibits A-55, A-78 and A-79 and will be substituted for the corresponding data in Mr. Balch's Exhibit A-50 and my Exhibit A-54 (Tr. 5641).

The exhibit of financial, operating and traffic statistics [fol. 1223] of the Southwestern Lines, Exhibit A-124, introduced by Mr. H. W. Press at Galveston February 5, 1926, includes in the Western Trunk Line Group the Duluth, South Shore & Atlantic Railway; Elgin, Joliet & Eastern Railway; Green Bay & Western Railroad and Lake Superior & Ishpeming Railway. These four roads are not respondents in this proceeding and I have not included them in my exhibits. The character of traffic on these roads and the nature of their operations is such that we do not believe they should be included in any exhibit intended to reflect conditions in Western Trunk Line Territory as defined in this proceeding. The Duluth, South Shore & Atlantic Railway extends from Duluth, Minnesota, to Sault Ste. Marie, Michigan, across northern Wisconsin and the Upper Peninsula of Michigan. In 1924 its operated mileage was 591.30. Its principal traffic consists of ore to the docks on Lake Superior and of forest products moving locally within its own territory. In 1924 the commodities transported by this road were:

Iron ore	1,327,123 Tons—	31.05 per cent
Other products of mines, principally sand, gravel and stone, and coal from Lake Superior docks	574,054 Tons—	13.43 per cent
Products of forests, the greater part of which consisted of logs and pulp wood	1,775,802 Tons—	41.55 per cent
Other carload freight and all L. C. L. freight	596,881 Tons—	13.97
Total Revenue Freight	4,273,860 Tons	100.00%

(Tr. 5642-5643.)

The Elgin, Joliet & Eastern Railway extends from Porter and Gary, Indiana to Waukegan, Illinois. It has a very heavy traffic to and from the steel mills and other industries on its rails, in addition to a large interchange traffic between eastern and western roads. Its operated mileage in 1924 [fol. 1224] was 459.77. Of the total tons of revenue freight carried in 1924, amounting to 29,558,259, 16,158,796, or 54.67 per cent, consisted of products of mines, mostly coal, coke and stone, going to the steel mills at Gary and South Chicago. It handled a total of 418,090 carloads of revenue freight, of which 210,970, or 50.46 per cent, were received from connections. By far the greater part of this was through business on which the revenue of the E. J. & E. Railway was a fixed car haul allowance, half of which is paid by the eastern lines and half by the western lines. The Green Bay & Western Railroad extends across central Wisconsin from Green Bay to Winona, Minnesota. Its operated mileage in 1924 was 234.15. Its traffic is of a somewhat general character. The principal commodities carried are products of mines and products of forests, namely:

Products of mines, principally bituminous coal from Lake Michigan docks and car ferry connections	266,411 Tons—	29.91 per cent
Products of forests, over half of which consisted of logs and pulp wood	138,385 Tons—	15.53 per cent
Other carload freight and all L. C. L. freight	486,084 Tons—	54.56 per cent
Total revenue freight	890,880 Tons—	100.00 per cent

(Tr. 5643-5644.)

The Lake Superior & Ishpeming Railway is located in the Upper Peninsula of Michigan and is predominately an ore carrying road. Its operated mileage in 1924 was 161.51. Its freight traffic consisted of the following:

Iron Ore	1,920,946 Tons—	64.32 per cent
Other products of mines, principally dock coal, sand and gravel	181,072 Tons—	6.06 per cent
[fol. 1225] Products of forests, 87 per cent of which was logs and pulp wood	772,237 Tons—	25.86 per cent
Other carload freight and all L. C. L. freight	112,431 Tons—	3.76 per cent
Total revenue freight	2,986,686 Tons—	100.00 per cent

The iron ore and other products of mines and products of forests, which constitute the major part of the traffic of these roads, move locally within the territory that they

serve. Of other carload freight, which is a very small percentage of their total traffic, the proportion that moves to or from the Southwest is so small as to be negligible (Tr. 5644).

Of the total freight traffic of the E. J. & E. Railway more than half consists of products of mines to steel mills. No part of this tonnage originates in the Southwest. Of the remaining traffic the greater part is through business between the East and the West. Some Southwestern traffic is handled by the E. J. & E. but it constitutes a very small percentage of the total freight business of that road. Considering the very slight extent to which any of these roads may participate as carriers of Southwestern traffic it is evident they should not be included as Western Trunk Lines for the purposes of this proceeding.

Exhibit A-124 includes in the list of Southwestern Lines the following: Fort Smith & Western Railroad; Louisiana & Arkansas Railway; Midland Valley Railroad; Missouri & North Arkansas Railway; Wichita Falls & Northwestern Railway (Prior to April 1, 1923); Fort Worth & Rio Grande Railway; San Antonio, Uvalde & Gulf Railroad; Trinity & Brazos Valley Railway; Wichita Valley Railway. None of these roads are respondents in this proceeding and I have not shown them in my exhibits (Tr. 5645).

The property investment, materials and supplies and [fol. 1226] cash for the years 1922, 1923, 1924 and 1925 shown on pages 10 to 13, inclusive, of my Exhibit A-241 agree with the corresponding data in Exhibit A-124, except in the following instances: Chicago Great Western Railroad: On page 10 of Exhibit A-241 I show the total property investment of this carrier as of January 1, 1925, as $141,306,785. In Exhibit A-124 at page 8 the property investment as of December 31, 1924, is shown as $174,147,937. This includes a duplication of $32,841,152. The same duplication appears in Exhibit A-124 for preceding years. The figures given in my exhibit are correct and when the duplication is eliminated from Exhibit A-124 the two entries will agree. Wabash Railway: On page 10 of Exhibit A-241 I show the total property investment of this carrier as $253,974,161. The corresponding item on page 8 of Exhibit A-124 is $252,131,184. The difference of $842,977 is the property investment account of the Hannibal Bridge. This

is a part of the physical property used by the Wabash Railway and the amount should be included in the property investment of that carrier. The same omission occurs in Exhibit A-124 for earlier years (Tr. 5646).

Southern Pacific Lines in Texas and Louisiana: In Exhibit A-241 I have shown these roads separately with an aggregate total property investment of $223,351,331 as of January 1, 1925. On page 8 of Exhibit A-124 the property investment of these lines is shown as $22,183,405. The difference of $1,167,926 is the property investment account of the Houston & Shreveport Railroad which I have included in my exhibits but which is not included in Exhibit A-124. The same difference is found in the figures for earlier years.

St. Louis-San Francisco Lines: In Exhibit A-124 the aggregate property investment of the St. Louis-San Fran- [fol. 1227] cisco, St. Louis, San Francisco & Texas and Fort Worth & Rio Grande, as of December 31, 1924, is shown on page 8 as $424,285,036 and on page 9 as $429,363,526. I have been unable to check either figure. In exhibit A-241, page 10, I have shown the property investment of the St. Louis-San Francisco Railway, including materials and supplies and cash, at the beginning of 1925, as $418,079,210, and for the St. Louis-San Francisco & Texas $3,528,185, or a total for the two roads of $421,677,395. The property investment of the Fort Worth & Rio Grande Railway, as of January 1, 1925, was as follows:

Investment in road and equipment	$8,085,921
Material and supplies	1,206
Cash	49,498
Total	$8,136,625

(Tr. 5646-5647.)

This would make the aggregate property investment of the three roads $429,814,020. The revenues and expenses of the Fort Worth & Rio Grande Railway not being used in my exhibits, I have not included the property investment of that carrier. For previous years the difference between the property investment account of the St. Louis-San Francisco Lines shown in Exhibit A-241 and in Exhibit A-124 is the property investment of the Fort Worth & Rio Grande

Railway, included in Exhibit A-124 and not included in my exhibit.

Kansas, Oklahoma & Gulf Railway: The property investment of this road as of January 1, 1922, shown on page 13 of Exhibit A-241 is $13,694,056. Exhibit A-124, page 5, shows as of December 31, 1921, property investment of $13,711,656. I have been unable to reconcile these figures. The amount I have used corresponds with that shown in the Interstate Commerce Commission's Thirty-Fifth Annual Report on the Statistics of Railways in the United [fol. 1228] States for the year 1921, and with the figures used by Mr. L. E. Wettling in Exhibit 1 in Ex Parte 87.

Missouri-Kansas-Texas and Missouri-Kansas-Texas of Texas: The total property investment of these roads as of January 1, 1922, shown on page 13 of Exhibit A-241 is $273,593,100. Exhibit A-124 at page 5 shows $281,399,308. This includes the property investment of the Wichita Falls & Northwestern Railway of $7,806,208. The revenues and expenses of the Wichita Falls & Northwestern for the year 1922 and prior to April 1, 1923, when it was taken over by the M-K-T, are not included in my exhibits and the property investment is therefore omitted (Tr. 5648-5649).

The net railway operating income for the years 1922, 1923 and 1924, inclusive, shown on pages 11, 12 and 13 of exhibit A-241 agrees with the net railway operating income for the same carriers shown on pages 6, 7 and 8 of exhibit A-124 with the following exceptions: Prior to April 1, 1923, exhibit A-241 does not include the Wichita Falls & North Western. Since April 1, 1923, the revenues and expenses of the Wichita Falls & North Western are included in the returns of the M-K-T Railway.

In Exhibit A-124 the Fort Worth & Rio Grande Railway is included with the St. Louis-San Francisco and St. Louis, San Francisco & Texas. My exhibits do not include the Fort Worth & Rio Grande. On page 11 of Exhibit A-241 the net railway operating income of the San Antonio & Aransas Pass Railway in 1924 is shown as $752,236, while on page 8 of exhibit A-124 it is shown as $758,461. The amount shown in my exhibit agrees with Mr. L. E. Wettling's Exhibit 1 in Ex Parte 87 and with the net railway operating income shown in statistical data compiled by the Bureau of Railway Economics. I have verified the amount

[fol. 1229] shown in my exhibit and find it to be correct (Tr. 5649).

On page 2 of Exhibit A-124 a comparison is made of the rate of return and net railway operating income per mile of road of carriers in Southwestern Territory with that of carriers in Western Trunk Line Territory for a 7-year period comprising the calendar years 1916 and 1917 and the years 1921 to 1925, inclusive. A 7-year average for the Western Trunk Lines based upon these years does not reflect the general condition of these carriers. In 1916 the revenues of the Western Trunk Lines reached their peak and were on a level far above that of any preceding or subsequent year, at least since 1910. In 1917 the revenues were somewhat below those of 1916 but still on a level far above that of the preceding or succeeding years. For the twelve roads included in the Western Trunk Line group in my exhibits, a list of which is given on page 5 of Exhibit A-54, the net railway operating income per mile of road for each of the years since 1910, excluding the period of Federal control and the guaranty period, was as follows:

Net Railway Operating Income per Mile of Road

For the year ended June 30, 1911	$2,288
" " " " " " 1912	1,911
" " " " " " 1913	2,449
" " " " " " 1914	2,302
" " " " " " 1915	2,254
" " " " Dec. 31, 1916	3,370
" " " " " " 1917	2,913
" " " " " " 1921	1,433
" " " " " " 1922	2,120
" " " " " " 1923	2,427
" " " " " " 1924	2,404
" " " " " " 1925	2,591

(Tr. 5650.)

[fol. 1230] The average property investment of these carriers in road and equipment, including materials and supplies and cash, increased from an average of $44,165 per mile of road operated on June 30, 1911, to $71,361 on December 31, 1924, an increase of $26,796, or a little over 60 per cent. The average annual net railway operating in-

come per mile of road operated in the years 1911 to 1915 ranged from $1,911 to $2,449, or an average for the 5-year period of $2,241. In the five years 1921 to 1925 the average annual net railway operating income per mile of road for these twelve Western Trunk Line ranged from $1,433 to $2,591, or an average for the five year period of $2,195.

Compared with these figures it will be seen that the results for the years 1916 and 1917 were exceptional and that the inclusion of these two years in the computation of a 7-year average, as has been done on Page 2 of Exhibit A-124, produces a result that is not indicative of the general average conditions of the roads in the Western Trunk Line group (Tr. 5651).

The net railway operating income and property investment given above were computed from reports of the carriers to the Interstate Commerce Commission.

In Exhibit A-124 on pages 34 and 35 are shown for the years 1923 and 1924 costs of station and yard expenses per ton of freight handled. The exhibit purports to show that these expenses range higher in Southwestern Territory than in Western Trunk Line Territory and this result is obtained by consolidating the tonnage of system or affiliated lines. Thus the average station and yard expense of the Santa Fe System in 1924, amounting to 48.49 cents per ton of freight handled, is obtained by dividing the total expense for station and yard service by the number of tons [fol. 1231] of freight carried by the system lines, counting only once each ton that was handled over two or more of the Santa Fe lines. In considering expenses for station and yard service, it would appear that each separately reported carrier should be treated separately. Had this been done and the number of tons carried as reported by each of the lines in the Santa Fe System used in the computation, the average would have been 42.13 cents. Where freight moves over two or more system or affiliated lines, it incurs expense for station and yard service on each one of the roads just the same as it would were the traffic interchanged with another railroad rather than with a system line (Tr. 5652).

Taking the data shown on Page 35 for the year ended December 31, 1924, and revising it on basis of the number of tons carried as reported by each road separately, a quite different result is obtained. The method used in preparation of the exhibit shows the average expense, including

the Santa Fe and Rock Island Lines in both groups, as 39.66 cents in the Southwest and 37.74 cents in Western Trunk Line Territory. Using the tons carried as reported by each road separately these figures would be 35.13 cents in the southwest and 36.88 cents in Western Trunk Line Territory. Excluding the Santa Fe and Rock Island from both groups, Exhibit A-124 shows 35.72 cents in the Southwest and 35.49 cents in Western Trunk Line Territory. Revising these figures on basis of tons carried as reported by each road separately, the figures are 31.62 cents in the Southwest and 35.49 in Western Trunk Line Territory.

In arriving at the average cost of station and yard service in Western Trunk Line Territory, the Duluth, South Shore and Atlantic, E. J. & E., Green Bay & Western and Lake Superior & Ishpeming are included. These expenses on the four roads named range from 8.51 to 17.47 cents, or [fol. 1232] from about ¼ to ½ of the average for the group (Tr. 5653).

I have already pointed out that these roads should not be included in an exhibit designed to reflect conditions on the Western Trunk Lines whose divisions are under consideration in this proceeding. Excluding these four roads, and computing the cost of station and yard service on basis of the tons carried as reported by each road separately, the results are as follows: Including Santa Fe and Rock Island Lines in both groups—Western Trunk Lines—39.14 cents per ton; Southwestern Lines—35.13 cents per ton; Excluding Santa Fe and Rock Island Lines from both groups: Western Trunk Lines—38.23 cents per ton; Southwestern Lines—31.62 cents per ton. Calculating the average cost of station and yard service per ton of freight handled on basis of the tons carried by each separately reporting railroad rather than by systems, it appears these expenses by any method of comparison range somewhat higher on the Western Trunk Lines than on the Southwestern Lines.

In exhibits A-51 to A-54, inclusive, I have shown by individual railroads and by groups the average freight revenue received and the average operating expenses assignable to freight service for units of service such as the ton mile, loaded car mile and freight train mile (Tr. 5654).

At pages 4951 and 4952 of the record Mr. Press contended that the net freight revenue per ton mile, per loaded

car mile or per freight train mile obtained by this method was in error to the extent that the revenue did not include the returns from miscellaneous freight service or that the operating expenses included the expense incurred in performing miscellaneous freight service. In the calculations made on pages 26 and 28 of his exhibit A-124 Mr. Press has used the freight revenue, account 101, the miscellaneous [fol. 1233] freight service earnings and a proportion of other miscellaneous revenues that under the accounting rules of the Interstate Commerce Commission are not assignable to freight or to passenger and allied services.

The miscellaneous freight service revenues assignable to freight service are the following: Switching revenue, Account; Other freight train revenue, Account 112; Storage of freight, Account 135; Demurrage, Account 137; Revenues from grain elevators, Account 139; Revenues from stock yards, Account 140 (Tr. 5655).

The revenues not assignable to either freight or passenger and allied services are: Special service train, Account 111; Hotel and restaurant, Account 132; Station, train and boat privileges, Account 133; Telegraph and Telephone, Account 138; Power Account 141; Rents of buildings and other property, Account 142; Miscellaneous, Account 143; Joint facility—credit, Account 151; Joint facility—debit, Account 152.

Neither the miscellaneous freight services nor the operations producing the other miscellaneous revenues listed above are measurable units of service such as ton miles, car miles or train miles. The revenues from these sources clearly cannot properly be used in computing the average return per unit of transportation service. Mr. Press argued for the inclusion of these miscellaneous revenues on the ground that the operating expenses assignable to freight service include the expenses of miscellaneous freight service operations and some part of the expenses of other incidental operations. He apparently proceeding on the assumption that this expense bore the same relation to the total expense assignable to freight service that the revenues from these miscellaneous and incidental services bore to the total freight service revenue, including a pro-

[fol. 1234] portion of the revenues not ordinarily assignable to either freight or passenger and allied services. There appears no warrant for such an assumption (Tr. 5655-5656).

Averages per unit of service afford a convenient method of comparison. When computed from results obtained from standard accounting practices based upon the accounting rules of the Interstate Commerce Commission, these averages rest upon a sound foundation. When we indulge assumptions and add or deduct an arbitrary amount to offset the undetermined cost of auxiliary services, the resulting comparisons are less to be relied upon than when based upon definitely known quantities. Miscellaneous freight service and other incidental revenues may not properly be used in computing earnings for units of service because they have no relation to such units of transportation service as the ton mile, car mile or train mile. The inclusion of such miscellaneous revenues tends to inflate the revenue per unit of transportation service and gives it a false value. I have therefore used in determining the average revenue per unit of service only the freight revenue, Account 101, and in determining the relative net return have deducted from this average freight revenue the average of the railway operating expenses assignable to freight service on the basis of the same units of transportation service. It may be of interest to compare briefly the results obtained by the different methods. The exhibits in the record afford the basis of three comparisons of this character for each of the three units of transportation service (Tr. 5656-5657).

In exhibit A-124, pages 28, 30 and 46, are found the basic data for computing the average revenue, including freight revenue, miscellaneous freight service revenue and a proportion of other incidental revenues. On page 2 of Exhibit A-54 are found similar basic data for computing the aver- [fol. 1235] age freight revenue or the average of the freight and miscellaneous freight service revenues combined. The following comparisons are for the year ended December 31, 1924, and show in the order indicated the following results:

1. Comparisons based upon data shown in Exhibit A-124, including freight revenue, miscellaneous freight service revenue and a proportion of other miscellaneous revenues.

2. Comparisons taken from pages 3 and 4 of exhibit A-54, including freight revenue only.

3. Comparisons based on data found on page 2 of Exhibit A-54, using freight revenue and miscellaneous revenue assignable to freight service.

Net Revenue per Million Ton-miles

1. Western Trunk Line Group	$2,709
Southwestern Lines Group	3,799
Excess S. W. over W. T. L group	1,090
2. Western Trunk Line Group	2,304
Southwestern Lines Group	3,403
Excess S. W. over W. T. L. Group	1,099
3. Western Trunk Line Group	2,574

(Tr. 5657-5658.)

Southwestern Lines Group	3,640
Excess S. W. over W. T. L. Group	1,066

Net Revenue per Loaded Freight-car Miles

1. Western Trunk Line Group	6.0 cents
Southwestern Lines Group	7.7 cents
Excess S. W. over W. T. L. Group	1.7
2. Western Trunk Line Group	5.2 cents
Southwestern Lines Group	6.9
Excess S. W. over W. T. L. Group	1.7
3. Western Trunk Line Group	5.8 cents
Southwestern Lines Group	7.4
Excess S. W. over W. T. L. Group	1.6

[fol. 1236] Net Revenue per Freight-train Mile

1. Western Trunk Line Group	$1.55
Southwestern Lines Group	1.94
Excess S. W. over W. T. L. Group	.39
2. Western Trunk Line Group	$1.33
Southwestern Lines Group	1.75
Excess S. W. over W. T. L. Group	.42
3. Western Trunk Line Group	1.49
Southwestern Lines Group	1.87
Excess S. W. over W. T. L. Group	.38

(Tr. 5659.)

In Exhibit A-241 I have used the miscellaneous freight service revenue in computing the average revenue from freight service per mile of road, and also in computing the ratio of operating expenses assignable to freight service to revenues. For the year ended December 31, 1924, the freight operating ratio as shown in this exhibit is 75.65 per cent for the W. T. L. group of roads and 72.10 per cent for the Southwestern Group, the ratio in the W. T. L. Group exceeding that in the Southwestern Group by 3.55 percentage points. The corresponding ratios obtained by the method followed by Mr. Press, as shown on page 28 of Exhibit A-124, are 74.88 per cent for the Western Trunk Lines and 71.35 per cent of the Southwestern Lines, the ratio of the Western Trunk Lines exceeding that of the Southwestern Lines by 3.53 percentage points. That comparison was according to my grouping with a comparison taken from Mr. Press' exhibit based on his grouping (Tr. 5659-5660).

The amount of other miscellaneous revenues that Mr. Press has taken into account in his computations is small in relation to the total and its inclusion or exclusion has very little effect on the average results. Its sources are not comparable in character with the operations that produce the principal operating revenues of the carriers and [fol. 1237] I do not believe under present accounting methods it is possible to allocate any particular proportion of operating expenses against these operations. None of these miscellaneous sources of revenue result from operations that can be measured in ton miles, car miles or train miles, and in the absence of some fairly accurate method of determining operating expenses chargeable to such miscellaneous operations, I am of the opinion that the soundest method for making comparisons of revenues, expenses and net results for units of service is that followed in my exhibits (Tr. 5660-5661).

At the Galveston hearing Mr. W. J. Sauer introduced Exhibits A-196, A-197 and A-198, in which he undertook to show by percentages the relation of the revenues received by the Southwestern Lines on traffic moving during June and October, 1924, to the revenue they would have received on basis of a mileage prorate. Exhibit A-196 is based upon data contained in Western Trunk Lines' Ex-

hibit A-60. In checking over the latter exhibit certain corrections have been found necessary in the statement of tons, ton miles and revenue of oil from Oklahoma Group B via Kansas City, shown on page 7. These corrections make the following changes in the percentages in Exhibit A-196: On Sheet 1 the ratio for Southwestern Lines on all carloads should be 112.1 per cent instead of 111 per cent. On oil the ratio for the Southwestern Lines should be 106.2 per cent instead of 104.3 per cent. The corrections that I am reading are the result of purely mathematical calculations (Tr. 5661).

On sheet 2 the ratio for Southwestern Lines on Oklahoma traffic via Kansas City should be 117.5 per cent instead of 114.2 per cent and the ratio of the bottom of the sheet [fol. 1238] for all traffic should be 115.8 per cent instead of 114.1 per cent. In commenting upon these exhibits I have used the corrected figures.

Exhibits A-196, A-197 and A-198 make no comparison between the Western Trunk Lines and Southwestern Lines, inasmuch as they show only ratios for one group of carriers. To afford a complete comparison there should have been shown in the exhibits the relation of the revenues accruing to the Western Trunk Lines to the revenue they would have received on basis of a mileage prorate. Thus on Sheet 1 in the last block of figures Mr. Sauer shows that on other carloads via all junctions the Southwestern Lines received 119.3 per cent of a mileage prorate. It is obvious if one group of carriers receives in excess of a mileage prorate the remaining carriers in the through route must receive less than a mileage prorate. To complete the comparison it should be shown that the revenues of the Western Trunk Lines were 74.2 per cent of what a mileage prorate would have yielded them. The complete comparison, therefore, is 74.2 per cent of a mileage prorate received by the Western Trunk Lines with 119.3 per cent of a mileage prorate received by the Southwestern Lines (Tr. 5662).

Where joint rates are divided on any basis that varies materially from a mileage prorate, a more apt comparison may be made by reducing the divisions to a common unit. Where the revenues under the joint rates accruing to one group of carriers return generally a higher rate per ton

mile than is received by the other group of carriers, the comparison may be made by taking as a unit one mile of haul in the territory in which the lower level of divisions prevails and equating the hauls in the other territory on the same per ton per mile basis. This will show the number of constructive miles represented by the divisions of one group of carriers compared with the actual mileage hauls of the other group. Such comparison more clearly illustrates the relative divisions of the two groups of car- [fol. 1239] riers than the tables shown in Exhibits A-196, A-197 and A-198. This may be illustrated by the following example: If we assume a through haul of 800 miles divided equally between two carriers, the divisions on a mileage basis would be 50 per cent to each. If one of the carriers is allowed for its service two miles for each mile accorded the other, then the divisions would be in the ratio of 400 to 800, or 33⅓ per cent to the first carrier and 66⅔ per cent to the other. Thus the second carrier would get twice as much as the first for the same length of haul, but its division of 66⅔ per cent is only 33⅓ per cent of a mileage prorate (Tr. 5662-5663).

I have prepared an exhibit, No. A-242, consisting of four pages, on which I have shown the number of miles represented by the divisions received by the Southwestern Lines compared with each actual mile of service on the Western Trunk Lines. This is based on the traffic moving in June, 1924, as shown in our exhibit A-60. The first page of the exhibit is based upon the data shown on page 1 of Exhibit A-60 and covers traffic moving via Kansas City. This is based on Exhibit A-60 as it will be with corrections. This page of the exhibit shows that for an actual weighted average haul of 418 miles the Southwestern Lines received the same revenue that they would have received on a mileage basis for a haul of 563 miles. The weighted average haul of the Western Trunk Lines was 472 miles. The factors 472 and 563 produce percentages of 45.6 per cent for the Western Trunk Lines and 54.4 per cent for the Southwestern Lines. These check with the percentages of revenue shown at the bottom of Sheet 2 of Exhibit A-196. While the revenue accruing to the Southwestern Lines was 115.8 per cent of the revenue they would have received on basis of a mileage prorate, the Western

Trunk Lines received only 87.1 per cent of a mileage prorate. The divisions accruing to the Southwestern Lines [fol. 1240] via Kansas City reflected 1.35 miles for each mile of service (Tr. 5664).

Sheet 2 of Exhibit A-242 is a similar statement of traffic moving via East St. Louis and is based on the data shown on page 2 of Exhibit A-60. It shows that on all carload traffic moving via East St. Louis in June, 1924, the Southwestern Lines for a weighted average haul of 508 miles. Revenue equal to a mileage prorate for a haul of 601 miles, or 1.18 miles for each mile of service. The weighted average haul of the Western Trunk Lines was 274 miles. The factors of 274 and 601 produce percentages of 31.3 per cent for the Western Trunk Lines and 68.7 per cent for the Southwestern Lines, which check with the figures shown at the bottom of Sheet 3 of Exhibit A-196. That exhibit shows on traffic moving via East St. Louis the Southwestern Lines received 105.7 per cent of a mileage prorate, but it does not show that Western Trunk Lines on the same traffic received only 89.5 per cent of a mileage prorate. Sheet 3 of Exhibit A-242 covers traffic moving via Cairo, Gale and Thebes, as shown on page 3 of Exhibit A-60. For a weighted average haul of 252 miles the Southwestern Lines received the same revenue that they would have received on a mileage basis for a haul of 353 miles, or 1.40 miles for each mile of service. The weighted average haul on the Western Trunk Lines was 290 miles. The factors of 290 and 353 produce percentages of 45.1 per cent for the Western Trunk Lines and 54.9 per cent for the Southwestern Lines. These check with the per cents shown on Sheet 4 of Exhibit A-196. While the revenues actually received by the Southwestern Lines were 118.1 per cent of what they would have received on a mileage prorate, the Western Trunk Lines' revenues were only 84.3 per cent of a mileage prorate (Tr. 5665-5666).

[fol. 1241] Page 4 of exhibit A-242 is a consolidation of the information contained on the preceding three pages. It shows that the revenues actually received by the Southwestern Lines on June, 1924, traffic moving via all junctions represented 1.29 miles for each mile of service. Thus for a weighted average haul of 443 miles the division of revenue was equal to that for a haul of 572 miles. The weighted

average haul of the Western Trunk Lines was 405 miles. The factors of 405 and 572 produce percentages of 41.5 per cent for the Western Trunk Lines and 58.5 per cent for the Southwestern Lines, which are the same as the percentages shown in the first block on sheet 1 of Exhibit A-196. That exhibit shows that the revenues accruing to the Southwestern Lines were 112.1 per cent of the revenue they would have received on basis of a mileage prorate. On the same traffic the Western Trunk Lines received only 86.8 per cent of a mileage prorate (Tr. 5666).

In Exhibit A-197 Mr. Sauer analyzes the traffic handled in October, 1924, shown in Southwestern Lines' Exhibit A-116 to A-120, inclusive, to show the ratio of the revenue received by those lines to the revenue that would have accrued to them had the divisions been on the basis of a mileage prorate. To make a complete comparison the ratios of revenues accruing to the Western Trunk Lines should have been included. Sheet 1 of Exhibit A-197 covers all carload traffic moving via all junctions during October, 1924. From this exhibit the following comparisons are drawn: On all carload traffic the Western Trunk Lines received 83.8 per cent of a mileage prorate and the Southwestern Lines 113.1 per cent. The divisions of the Southwestern Lines were equivalent to 1.35 miles for each mile of service. On lumber the Western Trunk Lines received 96 per cent and the Southwestern Lines 102.3 per cent of [fol. 1242] a mileage prorate, the latter being equivalent to 1.07 miles for each mile of service. On oil the Western Trunk Lines received 92.6 per cent and the Southwestern Lines 107.7 per cent of a mileage prorate, the divisions of the Southwestern Lines being equal to 1.16 miles for each mile of actual service. On other carload freight the revenues accruing to the Western Trunk Lines were equal to 76.7 per cent and those accruing to the Southwestern Lines 117.3 per cent of a mileage prorate, the Southwestern Lines on this traffic receiving divisions equal to 1.53 miles for each mile of service (Tr. 5666-5667).

On all carload traffic moving via Kansas City, shown on Sheet 2 of Exhibit A-197, the Western Trunk Lines received 83.8 per cent and the Southwestern Lines 115.4 per cent of the revenue they would have received on basis of a mileage prorate, the divisions to the Southwestern Lines

represented 1.38 miles for each actual mile of service. On all carload traffic moving via East St. Louis, shown on Sheet 3 of Exhibit A-197, the ratios were 84.2 per cent for the Western Trunk Lines and 1091. per cent for the Southwestern Lines. The Southwestern Lines received revenue equal to 1.30 miles for each actual mile of service. On all carload traffic moving via Cairo, Gale and Thebes, shown on Sheet 4 of Exhibit A-197, the revenues of the Western Trunk Lines were equal to 86.3 per cent and those of the Southwestern Lines to 112.4 per cent of what each group of carriers would have received on basis of a mileage prorate. The divisions of the Southwestern Lines were equal to an allowance of 1.30 miles for each mile of service.

I prepared these exhibits A-241 and A-242 myself.

The statements theretofore described by the witness and referred to by him as Exhibits A-241 and A-242 were therefore offered in evidence (Tr. 5667-5668).

[fol. 1243] (The statements described by the witness were received in evidence as Exhibits A-241 and A-242 respectively).

Said exhibit A-241 is in words and figures as follows:

(Here follows Exhibit No. A-241, side folios 1244, 1245, 1246, 1247, 1248, 1249, 1250, 1251, 1252, 1253, 1254, 1255, 1256, 1257, 1258, 1259, 1260, and 1261.)

[fol. 1244]

EXHIBIT No. A-241

Witness: Parsons

(Title page omitted)

Page 2

I. C. C. Docket 15234

1925

Railway Operating Revenues and Expenses, Net Railway Operating Income, and Rate of Return
Year Ended December 31, 1925

	Western trunk lines	Texas lines	Louisiana lines	Other Southwestern lines	All Southwestern lines
Average Miles of Road Operated	48 100	14 341	1 326	33 120	48 787
Railway Operating Revenues	$867 887 503	$220 164 078	$24 632 187	$618 446 270	$863 242 535
Railway Operating Expenses	668 925 441	164 257 452	19 949 993	448 360 108	632 567 553
Net Railway Operating Revenue	198 962 062	55 906 626	4 682 194	170 086 162	230 674 982
Railway Tax Accruals	53 426 620	9 723 199	1 756 222	37 101 615	48 581 036
Uncollectible Railway Revenues	257 207	126 760	17 889	231 662	376 311
Equipment Rents, Net Debit	11 293 561	9 692 854	264 517	7 316 501	17 273 872
Joint Facility Rents, Net Debit	9 351 499	369 332	91 904	4 903 924	5 365 160
Net Railway Operating Income	124 633 175	35 994 481	2 551 662	120 532 460	159 078 603
Operating Ratio	77.08%	74.61%	80.99%	72.50%	73.28%
Ratio and Expenses and Rents to Revenue (a)	85.64%	83.65%	89.64%	80.51%	81.57%
Property Investment, Materials and Supplies and Cash, as of January 1, 1925	$3 432 475 212	$711 614 996	$100 111 573	$2 592 136 286	$3 403 862 855
Rate of Return	3.63%	5.06%	2.55%	4.65%	4.67%

*—Does not include data of K. O. & G. Ry. of Texas or H. & S. R. R.

(a)—Ratio of the sum of Railway Operating Expenses, Railway Tax Accruals, Uncollectible Railway Revenues and Equipment and Joint Facility Rents to Railway Operating Revenues.

[fol. 1245]

I. C. C. Docket 15234

1924

Railway Operating Revenues and Expenses, Net Railway Operating Income and Rate of Return, Freight Revenues and Expenses
Year Ended December 31, 1924

	Western trunk lines	Texas lines	Louisiana lines	Other Southwestern lines	All Southwestern lines
Average Miles of Road Operated	47 739	14 311	1 367	32 935	48 613
Railway Operating Revenues	$861 647 922	$222 289 822	$25 252 936	$603 410 743	$850 953 501
Railway Operating Expenses—					
Maintenance of Way & Structures	119 110 099	36 276 294	4 936 003	84 403 345	125 615 642
Maintenance of Equipment	183 964 666	41 491 574	4 834 705	130 332 256	176 658 535
Transportation	330 875 857	73 608 464	8 915 954	207 330 815	289 855 233
Other Expenses	41 498 306	12 615 763	1 944 601	28 063 280	42 623 644
Total Expenses	675 448 928	163 992 095	20 631 263	450 129 696	634 753 054
Net Railway Operating Revenues	186 198 994	58 297 727	4 621 673	153 281 047	216 200 447
Railway Tax Accruals	52 493 393	8 749 554	1 789 465	36 531 004	47 070 023
Uncollectible Railway Revenues	404 742	138 656	18 137	240 671	397 464
Hire of Equipment and Joint Facility Rents—Net Debit.	18 540 113	9 901 591	405 671	9 462 556	19 769 818
Net Railway Operating Income	114 760 746	39 507 026	2 408 400	107 046 816	148 963 142
Operating Ratio	78.39%	73.77%	81.70%	74.60%	74.59%
Ratio Expenses and Rents to Revenue (a)	86.68%	82.23%	90.46%	82.26%	82.49%
Property Investment, Materials and Supplies and Cash, as of January 1, 1924	$3 369 101 645	$687 995 590	$99 254 758	$2 495 166 138	$3 282 416 486
Rate of Return	3.41%	5.74%	2.43%	4.29%	4.54%
Freight Revenue	$640 681 920	$168 541 935	$19 101 595	$443 088 033	$630 731 563
Miscellaneous Freight Service Revenue	16 793 688	2 807 562	420 374	8 448 105	11 676 041
Total Freight Service Revenue	657 475 608	171 349 497	19 521 969	451 536 138	642 407 604
Railway Operating Expenses—Freight					
Maintenance of Way & Structures	87 888 235	27 212 740	3 624 186	60 774 490	91 611 416
Maintenance of Equipment	140 434 551	32 191 810	3 757 234	97 452 542	133 401 586
Transportation	245 353 222	55 141 434	6 771 981	150 492 129	212 405 544
Other Expenses	23 704 622	7 633 259	1 271 901	16 850 796	25 755 956
Total Expenses	497 380 630	122 179 243	15 425 302	325 569 957	463 174 502
Net Freight Revenue	143 301 290	46 362 692	3 676 293	117 518 076	167 557 061

	Western trunk lines	Texas lines	Louisiana lines	Other Southwestern lines	All Southwestern lines
Average Miles of Road Operated	47 739	14 311	1 367	32 935	48 613
Railway Operating Revenues	$861 647 922	$222 289 822	$25 252 936	$603 410 743	$850 953 501
Railway Operating Expenses—					
Maintenance of Way & Structures	119 110 099	36 276 294	4 936 003	84 403 345	125 615 642
Maintenance of Equipment	183 964 666	41 491 574	4 834 705	130 332 256	176 658 535
Transportation	330 875 857	73 608 464	8 915 954	207 330 815	289 855 233
Other Expenses	41 498 306	12 615 763	1 944 601	28 063 280	42 623 644
Total Expenses	675 448 928	163 992 095	20 631 263	450 129 696	634 753 054
Net Railway Operating Revenues	186 198 994	58 297 727	4 621 673	153 281 047	216 200 447
Railway Tax Accruals	52 493 393	8 749 554	1 789 465	36 531 004	47 070 023
Uncollectible Railway Revenues	404 742	138 656	18 137	240 671	397 464
Hire of Equipment and Joint Facility Rents—Net Debit.	18 540 113	9 901 591	405 671	9 462 556	19 769 818
Net Railway Operating Income	114 760 746	39 507 026	2 408 400	107 046 816	148 963 142
Operating Ratio	78.39%	73.77%	81.70%	74.60%	74.59%
Ratio Expenses and Rents to Revenue (a)	86.68%	82.23%	90.46%	82.26%	82.49%
Property Investment, Materials and Supplies and Cash, as of January 1, 1924	$3 369 101 645	$687 995 590	$99 254 758	$2 495 166 138	$3 282 416 486
Rate of Return	3.41%	5.74%	2.43%	4.29%	4.54%
Freight Revenue	$640 681 920	$168 541 935	$19 101 595	$443 088 033	$630 731 563
Miscellaneous Freight Service Revenue	16 793 688	2 807 562	420 374	8 448 105	11 676 041
Total Freight Service Revenue	657 475 608	171 349 497	19 521 969	451 536 138	642 407 604
Railway Operating Expenses—Freight					
Maintenance of Way & Structures	87 888 235	27 212 740	3 624 186	60 774 490	91 611 416
Maintenance of Equipment	140 434 551	32 191 810	3 757 234	97 452 542	133 401 586
Transportation	245 353 222	55 141 434	6 771 981	150 492 129	212 405 544
Other Expenses	23 704 622	7 633 259	1 271 901	16 850 796	25 755 956
Total Expenses	497 380 630	122 179 243	15 425 302	325 569 957	463 174 502
Net Freight Revenue	143 301 290	46 362 692	3 676 293	117 518 076	167 557 061
Net Freight Service Revenue	160 094 978	49 170 254	4 096 667	125 966 181	179 233 102
Operating Ratio—Freight (b)	75.65%	71.30%	79.01%	72.19%	72.10%

(a)—Ratio of the sum of Railway Operating Expenses, Railway Tax Accruals, Uncollectible Railway Revenues and Equipment and Joint Facility Rents to Railway Operating Revenues.

(b)—Ratio of Freight Operating Expenses to total Freight Service Revenue.

I. C. C. Docket 15234

1923

Railway Operating Revenues and Expenses, Net Railway Operating Income and Rate of Return, Freight Revenues and Expenses

Year Ended December 31, 1923

	Western Trunk Lines	Texas Lines	Louisiana Lines	Other Southwestern Lines	All Southwestern Lines
Average Miles of Road Operated	47 730	14 389	1 368	32 703	48 460
Railway Operating Revenues	$916 770 803	$201 748 712	$25 911 343	$607 598 697	$835 258 752
Railway Operating Expenses—					
Maintenance of Way & Structures	126 682 554	34 210 396	4 597 796	81 254 153	120 062 345
Maintenance of Equipment	208 708 741	43 380 922	5 162 898	144 271 574	192 815 367
Transportation	357 615 563	72 175 284	8 831 855	212 960 329	293 967 468
Other Expenses	41 079 182	11 428 488	1 845 339	26 294 074	39 567 901
Total Expenses	734 086 040	161 195 090	20 437 888	464 780 103	646 413 081
Net Railway Operating Revenues	182 684 763	40 553 622	5 473 455	142 818 594	188 845 671
Railway Tax Accruals	48 388 188	7 312 425	1 972 803	37 651 224	46 936 452
Uncollectible Railway Revenues	226 440	130 482	14 135	216 618	361 235
Hire of Equipment and Joint Facility Rents—Net Debit	18 205 552	8 117 724	82 661	5 905 303	14 105 688
Net Railway Operating Income	115 864 583	24 992 991	3 403 856	99 045 449	127 442 296
Operating Ratio	80.07%	79.89%	78.88%	76.49%	77.39%
Ratio Expenses and Rents to Revenue (a)	87.36%	87.61%	86.86%	83.70%	84.74%
Property Investment, Materials and Supplies and Cash, as of January 1, 1923	$3 230 775 599	$678 919 419	$97 236 353	$2 404 769 808	$3 180 925 580
Rate of Return	3.58%	3.68%	3.50%	4.12%	4.01%
Freight Revenue	$683 363 385	$147 282 951	$19 209 299	$436 916 813	$603 409 063
Miscellaneous Freight Service Revenue	18 299 709	2 598 461	402 182	8 477 511	11 478 154
Total Freight Service Revenue	701 663 094	149 881 412	19 611 481	445 394 324	614 887 217
Railway Operating Expenses—Freight					
Maintenance of Way & Structures	94 986 381	24 881 868	3 244 753	58 894 756	87 021 377
Maintenance of Equipment	162 377 275	33 010 387	3 896 862	107 571 332	144 478 581
Transportation	270 406 806	53 389 791	6 506 055	154 999 028	214 894 874
Other Expenses	23 891 596	6 940 150	1 216 196	17 348 143	25 504 489
Total Expenses	551 662 058	118 222 196	14 863 866	338 813 259	471 899 321

	Trunk Lines	Texas Lines	Louisiana Lines	Southwestern Lines	Southwestern Lines
Average Miles of Road Operated	47 730	14 389	1 368	32 703	48 460
Railway Operating Revenues	$916 770 803	$201 748 712	$25 911 343	$607 598 697	$835 258 752
Railway Operating Expenses—					
Maintenance of Way & Structures	126 682 554	34 210 396	4 597 796	81 254 153	120 062 345
Maintenance of Equipment	208 708 741	43 380 922	5 162 898	144 271 574	192 815 367
Transportation	357 615 563	72 175 284	8 831 855	212 960 329	293 967 468
Other Expenses	41 079 182	11 428 488	1 845 339	26 294 074	39 567 901
Total Expenses	734 086 040	161 195 090	20 437 888	464 780 103	646 413 081
Net Railway Operating Revenues	182 684 763	40 553 622	5 473 455	142 818 594	188 845 671
Railway Tax Accruals	48 388 188	7 312 425	1 972 803	37 651 224	46 936 452
Uncollectible Railway Revenues	226 440	130 482	14 135	216 618	361 235
Hire of Equipment and Joint Facility Rents—Net Debit	18 205 552	8 117 724	82 661	5 905 303	14 105 688
Net Railway Operating Income	115 864 583	24 992 991	3 403 856	99 045 449	127 442 296
Operating Ratio	80.07%	79.89%	78.88%	76.49%	77.39%
Ratio Expenses and Rents to Revenue (a)	87.36%	87.61%	86.86%	83.70%	84.74%
Property Investment, Materials and Supplies and Cash, as of January 1, 1923	$3 230 775 599	$678 919 419	$97 236 353	$2 404 769 808	$3 180 925 580
Rate of Return	3.58%	3.68%	3.50%	4.12%	4.01%
Freight Revenue	$683 363 385	$147 282 951	$19 209 299	$436 916 813	$603 409 063
Miscellaneous Freight Service Revenue	18 299 709	2 598 461	402 182	8 477 511	11 478 154
Total Freight Service Revenue	701 663 094	149 881 412	19 611 481	445 394 324	614 887 217
Railway Operating Expenses—Freight					
Maintenance of Way & Structures	94 986 381	24 881 868	3 244 753	58 894 756	87 021 377
Maintenance of Equipment	162 377 275	33 010 387	3 896 862	107 571 332	144 478 581
Transportation	270 406 806	53 389 791	6 506 055	154 999 028	214 894 874
Other Expenses	23 891 596	6 940 150	1 216 196	17 348 143	25 504 489
Total Expenses	551 662 058	118 222 196	14 863 866	338 813 259	471 899 321
Net Freight Revenue	131 701 327	29 060 755	4 345 433	98 103 554	131 509 742
Net Freight Service Revenue	150 001 036	31 659 216	4 747 615	106 581 065	142 987 896
Operating Ratio—Freight (b)	78.62%	78.88%	75.79%	76.07%	76.75%

(a)—Ratio of the sum of Railway Operating Expense, Railway Tax Accruals, Uncollectible Railway Revenues and Equipment and Joint Facility Rents to Railway Operating Revenues.

(b)—Ratio of Freight Operating Expenses to total Freight Service Revenue.

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1922

Railway Operating Revenues and Expenses, Net Railway Operating Income and Rate of Return, Freight Revenues and Expenses

Year Ended December 31, 1922

	Western trunk lines	Texas lines	Louisiana lines	Other Southwestern lines	All Southwestern lines
Average Miles of Road Operated	47 612	14 456	1 356	32 528	48 340
Railway Operating Revenues	$848 749 130	$191 061 960	$23 865 916	$562 810 127	$777 738 003
Railway Operating Expenses—					
Maintenance of Way & Structures	111 854 264	33 409 003	4 233 849	82 404 311	120 047 163
Maintenance of Equipment	186 607 709	39 348 979	4 890 804	117 998 295	162 238 078
Transportation	344 328 629	72 289 943	8 245 986	204 569 805	285 105 734
Other Expenses	39 374 784	11 608 788	1 760 836	25 029 674	38 399 298
Total Expenses	682 165 386	156 656 713	19 131 475	430 002 085	605 790 273
Net Railway Operating Revenues	166 583 744	34 405 247	4 734 441	132 808 042	171 947 730
Railway Tax Accruals	51 599 784	7 078 530	1 615 187	35 059 932	43 753 649
Uncollectible Railway Revenues	149 368	101 824	8 451	193 929	304 204
Hire of Equipment and Joint Facility Rents—Net Debit	13 907 351	8 806 365	262 062	6 199 184	15 267 611
Net Railway Operating Income	100 927 241	18 418 528	2 848 741	91 354 997	112 622 266
Operating Ratio	80.37%	81.99%	80.16%	76.40%	77.89%
Ratio Expenses and Rents to Revenue (a)	88.11%	90.36%	88.06%	83.77%	85.52%
Property Investment, Materials and Supplies and Cash, as of January 1, 1922	$3 154 687 132	$673 002 102	$95 848 937	$2 361 914 623	$3 130 765 662
Rate of Return	3.20%	2.74%	2.97%	3.87%	3.60%
Freight Revenue	$625 720 751	$138 956 817	$17 436 007	$403 451 058	$559 843 882
Miscellaneous Freight Service Revenue	15 587 014	2 164 460	367 840	7 460 180	9 992 480
Total Freight Service Revenue	641 306 765	141 121 277	17 803 847	410 911 238	569 836 362
Railway Operating Expenses—Freight					
Maintenance of Way & Structures	81 636 973	23 686 244	2 554 313	58 027 253	84 267 810
Maintenance of Equipment	144 822 316	29 967 678	4 049 889	88 692 178	122 709 745
Transportation	254 547 360	52 630 266	5 969 959	145 745 477	204 345 702
Other Expenses	23 372 601	8 015 942	1 525 261	15 950 340	25 491 543
Total Expenses	504 379 250	114 300 130			

	lines	lines	lines	lines	lines
Average Miles of Road Operated	47 612	14 456	1 356	32 528	48 340
Railway Operating Revenues	$848 749 130	$191 061 960	$23 865 916	$562 810 127	$777 738 003
Railway Operating Expenses—					
Maintenance of Way & Structures	111 854 264	33 409 003	4 233 849	82 404 311	120 047 163
Maintenance of Equipment	186 607 709	39 348 979	4 890 804	117 998 295	162 238 078
Transportation	344 328 629	72 289 943	8 245 986	204 569 805	285 105 734
Other Expenses	39 374 784	11 608 788	1 760 836	25 029 674	38 399 298
Total Expenses	682 165 386	156 656 713	19 131 475	430 002 085	605 790 273
Net Railway Operating Revenues	166 583 744	34 405 247	4 734 441	132 808 042	171 947 730
Railway Tax Accruals	51 599 784	7 078 530	1 615 187	35 059 932	43 753 649
Uncollectible Railway Revenues	149 368	101 824	8 451	193 929	304 204
Hire of Equipment and Joint Facility Rents—Net Debit	13 907 351	8 806 365	262 062	6 199 184	15 267 611
Net Railway Operating Income	100 927 241	18 418 528	2 848 741	91 354 997	112 622 266
Operating Ratio	80.37%	81.99%	80.16%	76.40%	77.89%
Ratio Expenses and Rents to Revenue (a)	88.11%	90.36%	88.06%	83.77%	85.52%
Property Investment, Materials and Supplies and Cash, as of January 1, 1922	$3 154 687 132	$673 002 102	$95 848 937	$2 361 914 623	$3 130 765 662
Rate of Return	3.20%	2.74%	2.97%	3.87%	3.60%
Freight Revenue	$625 720 751	$138 956 817	$17 436 007	$403 451 058	$559 843 882
Miscellaneous Freight Service Revenue	15 587 014	2 164 460	367 840	7 460 180	9 992 480
Total Freight Service Revenue	641 306 765	141 121 277	17 803 847	410 911 238	569 836 362
Railway Operating Expenses—Freight					
Maintenance of Way & Structures	81 636 973	23 686 244	2 554 313	58 027 253	84 267 810
Maintenance of Equipment	144 822 316	29 967 678	4 049 889	88 692 178	122 709 745
Transportation	254 547 360	52 630 266	5 969 959	145 745 477	204 345 702
Other Expenses	23 372 601	8 015 942	1 525 261	15 950 340	25 491 543
Total Expenses	504 379 250	114 300 130	14 099 422	308 415 248	436 814 800
Net Freight Revenue	121 341 501	24 656 687	3 336 585	95 035 810	123 029 082
Net Freight Service Revenue	136 927 515	26 821 147	3 704 425	102 495 990	133 021 562
Operating Ratio—Freight (b)	78.65%	80.99%	79.19%	75.06%	76.66%

(a)—Ratio of the sum of Railway Operating Expenses, Railway Tax Accruals, Uncollectible Railway Revenues and Equipment and Joint Facility Rents to Railway Operating Revenues.

(b)—Ratio of Freight Operating Expenses to total Freight Service Revenue.

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Railway Operating Revenues and Expenses, Net Railway Operating Income and Property Investment Per Mile of Road

Year Ended December 31, 1925

Averages Per Mile of Road	Western Trunk Lines	*Texas Lines	*Louisiana Lines	Other Southwestern Lines	All Southwestern Lines
Railway Operating Revenues	$18 043	$15 352	$18 576	$18 673	$17 694
Railway Operating Expenses	13 907	11 454	15 045	13 538	12 966
Net Railway Operating Revenues	4 136	3 898	3 531	5 135	4 728
Railway Tax Accruals	1 111	678	1 325	1 120	996
Uncollectible Railway Revenues	5	9	14	7	7
Equipment Rents, Net Debit	235	676	199	221	354
Joint Facility Rents, Net Debit	194	25	69	148	110
Net Railway Operating Income	2 591	2 510	1 924	3 639	3 261
Property Investment, Materials and Supplies and Cash, as of January 1, 1925	71 361	49 621	75 499	78 265	69 770

*—Does not include data of K. O. & G. Ry. of Texas or H. & S. R. R.

Railway Operating Revenues and Expenses, Net Railway Operating Income, Property Investment, Freight Revenues and Expenses and Ton Miles Revenue Freight Per Mile of Road

Year Ended December 31, 1924

Averages Per Mile of Road	Western trunk lines	Texas lines	Louisiana lines	Other Southwestern lines	All Southwestern lines
Railway Operating Revenues	$18 049	$15 533	$18 473	$18 321	$17 505
Railway Operating Expenses—					
Maintenance of Way & Structures	2 495	2 535	3 610	2 563	2 584
Maintenance of Equipment	3 854	2 899	3 537	3 957	3 634
Transportation	6 931	5 143	6 522	6 295	5 963
Other Expenses	869	882	1 423	852	877
Total Expenses	14 149	11 459	15 092	13 667	13 058
Net Railway Operating Revenues	3 900	4 074	3 381	4 654	4 447
Railway Tax Accruals	1 100	611	1 309	1 109	968
Uncollectible Railway Revenues	8	10	13	7	8
Hire of Equipment and Joint Facility Rents—Net Debit	388	692	297	288	407
Net Railway Operating Income	2 404	2 761	1 762	3 250	3 064
Property Investment, Materials and Supplies and Cash, as of January 1, 1924	$70 573	$48 075	$72 608	$75 760	$67 522
Freight Revenue	$13 421	$11 777	$13 973	$13 453	$12 975
Miscellaneous Freight Service Revenue	351	196	308	257	240
Total Freight Service Revenue	13 772	11 973	14 281	13 710	13 215
Railway Operating Expenses—Freight					
Maintenance of Way & Structures	1 841	1 902	2 652	1 845	1 884
Maintenance of Equipment	2 942	2 249	2 748	2 959	2 745
Transportation	5 139	3 853	4 954	4 569	4 369
Other Expenses	497	533	930	512	530
Total Expenses	10 419	8 537	11 284	9 885	9 528
Net Freight Revenue	3 002	3 240	2 689	3 568	3 447
Net Freight Service Revenue	3 353	3 436	2 997	3 825	3 687
Ton Miles Revenue Freight	1 302 926	853 342	1 036 221	1 081 430	1 013 012

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1923

Railway Operating Revenues and Expenses, Net Railway Operating Income, Property Investment, Freight Revenues and Expenses and Ton Miles Revenue Freight Per Mile of Road

Year Ended December 31, 1923

Averages Per Mile of Road	Western Trunk Lines	Texas Lines	Louisiana Lines	Other Southwestern Lines	All Southwestern Lines
Railway Operating Revenues	$19 207	$14 021	$18 941	$18 579	$17 236
Railway Operating Expenses—					
Maintenance of Way & Structures	2 653	2 377	3 361	2 485	2 478
Maintenance of Equipment	4 373	3 015	3 774	4 412	3 979
Transportation	7 492	5 016	6 456	6 511	6 066
Other Expenses	862	795	1 349	804	816
Total Expenses	15 380	11 203	14 940	14 212	13 339
Net Railway Operating Revenues	3 827	2 818	4 001	4 367	3 897
Railway Tax Accruals	1 014	508	1 442	1 151	969
Uncollectible Railway Revenues	5	9	10	6	7
Hire of Equipment and Joint Facility Rents—Net Debit	381	564	61	181	291
Net Railway Operating Income	2 427	1 737	2 488	3 029	2 630
Property Investment, Materials and Supplies and Cash, as of January 1, 1923	$67 689	$47 183	$71 079	$73 534	$65 640
Freight Revenue	$14 317	$10 236	$14 042	$13 360	$12 452
Miscellaneous Freight Service Revenue	384	180	294	259	237
Total Freight Service Revenue	14 701	10 416	14 336	13 619	12 689
Railway Operating Expenses—Freight					
Maintenance of Way & Structures	1 990	1 729	2 372	1 801	1 796
Maintenance of Equipment	3 402	2 294	2 849	3 289	2 981
Transportation	5 665	3 711	4 755	4 740	4 434
Other Expenses	501	482	889	530	527
Total Expenses	11 558	8 216	10 865	10 360	9 738
Net Freight Revenue	2 759	2 020	3 177	3 000	2 714
Net Freight Service Revenue	3 143	2 200	3 471	3 259	2 951
Ton Miles Revenue Freight	1 398 998	728 893	964 476	1 035 814	942 668

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1922

Railway Operating Revenues and Expenses, Net Railway Operating Income, Property Investment, Freight Revenues and Expenses and Ton Miles Revenue Freight Per Mile of Road

Year Ended December 31, 1922

Averages Per Mile of Road	Western trunk lines	Texas lines	Louisiana lines	Other Southwestern lines	All Southwestern lines
Railway Operating Revenues	$17 827	$13 217	$17 600	$17 302	$16 088
Railway Operating Expenses—					
Maintenance of Way & Structures	2 349	2 311	3 122	2 533	2 483
Maintenance of Equipment	3 920	2 722	3 607	3 628	3 356
Transportation	7 232	5 001	6 082	6 289	5 898
Other Expenses	827	803	1 298	769	794
Total Expenses	14 328	10 837	14 109	13 219	12 531
Net Railway Operating Revenues	3 499	2 380	3 491	4 083	3 557
Railway Tax Accruals	1 084	490	1 191	1 078	905
Uncollectible Railway Revenues	3	7	6	6	6
Hire of Equipment and Joint Facility Rents—Net Debit	292	609	193	191	316
Net Railway Operating Income	2 120	1 274	2 101	2 808	2 330
Property Investment, Materials and Supplies and Cash, as of January 1, 1922	$66 258	$46 555	$70 685	$72 612	$64 766
Freight Revenue	$13 142	$9 612	$12 858	$12 403	$11 581
Miscellaneous Freight Service Revenue	328	150	272	230	207
Total Freight Service Revenue	13 470	9 762	13 130	12 633	11 788
Railway Operating Expenses—Freight					
Maintenance of Way & Structures	1 715	1 639	1 883	1 784	1 743
Maintenance of Equipment	3 042	2 073	2 987	2 727	2 538
Transportation	5 346	3 640	4 403	4 481	4 228
Other Expenses	491	555	1 125	490	572
Total Expenses	10 594	7 907	10 398	9 482	9 036
Net Freight Revenue	2 548	1 705	2 460	2 921	2 545
Net Freight Service Revenue	2 876	1 855	2 732	3 151	2 752
Ton Miles Revenue Freight	1 243 622	653 463	831 825	904 321	827 269

1925

Property Investment and Net Railway Operating Income
Year Ended December 31, 1925

Railroad	Property investment, 701-702	Materials and supplies, 716	Cash, 708	Total property investment	Net railway operating income
Chicago & Alton	$154 138 288	$1 717 996	$2 516 480	$158 372 764	$4 547 871
C. & E. I	86 532 151	2 341 393	1 725 388	90 598 932	2 148 267
C. & N. W	493 582 386	13 941 088	12 678 992	520 202 466	21 108 750
C. B. & Q	575 464 188	18 525 883	17 048 439	611 038 510	28 131 917
C. G. W	138 090 365	1 190 471	2 025 949	141 306 785	2 087 913
C. M. & St. P	720 663 283	13 575 288	7 843 985	742 082 556	16 873 636
C., St. P. M. & O	88 111 012	2 239 278	1 117 585	91 467 875	3 221 619
Illinois Central	497 224 657	12 423 757	17 886 348	527 534 762	25 113 866
M. & St. L	65 330 900	1 869 020	426 246	67 626 166	363 865
M. St. P. & S. S. M	216 251 642	4 890 363	1 667 029	222 809 034	8 959 230
Q. O. & K. C	6 461 201	.....	.....	6 461 201	Def 176 274
Wabash	243 396 945	4 196 487	5 360 729	252 974 161	12 252 515
A. T. & S. F	827 628 763	23 843 753	32 248 314	883 720 830	45 606 325
B. S. L. & W	3 469 826	.....	72 358	3 542 184	233 789
C. R. I. & G	19 413 522	481 949	55 672	19 951 143	1 233 344
C. R. I. & P	392 665 629	11 071 031	5 707 765	409 444 425	16 693 040
Ft. W. & D. C	30 784 481	820 409	4 833 541	36 438 431	3 521 773
G. H. & S. A	84 301 196	2 980 418	1 252 201	88 533 815	3 983 557
G. C. & S. F	63 806 553	2 936 050	3 090 607	69 833 210	5 271 601
H. & S	1 139 661	.....	28 265	1 167 926	a
H. & T. C	47 001 914	1 406 194	550 295	48 958 403	2 120 304
H. E. & W. T	7 486 182	315 607	112 818	7 914 607	570 320
I. G. N	45 136 893	2 396 352	1 984 807	49 518 052	2 239 657
K. C. M. & O	22 254 305	388 427	807 385	23 450 117	56 572
K. C. M. & O. of Tex	6 903 461	76 685	.....	6 980 146	32 472
K. C. S	103 177 385	2 043 994	1 419 131	106 640 510	3 720 748
K. O. & G	18 821 086	201 149	245 708	19 267 943	6 359
K. O. & G. of Tex	371 781	1 096	5 074	377 951	a
L. R. & N. Co	22 897 031	463 771	130 363	23 491 165	31 199
L. R. & N. Co. of Tex	3 155 309	97 358	86 710	3 339 377	2 913
La. Western	10 168 168	.....	255 017	10 423 185	651 891
M. K. T	200 462 037	6 353 075	2 643 250	209 458 362	10 392 658

K. O. & G. of Tex	371 781	1 096	5 074	377 951	a
L. R. & N. Co	22 897 031	463 771	130 363	23 491 165	31 199
L. R. & N. Co. of Tex	3 155 309	97 358	86 710	3 339 377	2 913
La. Western	10 168 168	.....	255 017	10 423 185	651 891
M. K. T	200 462 037	6 353 075	2 643 250	209 458 362	10 392 658
M. K. T. of Tex	73 475 120	.....	704 065	74 179 185	2 432 966
Mo. Pac	418 392 110	12 007 235	4 887 237	435 286 582	18 013 064
M. L. & T	32 552 988	1 776 455	173 042	34 502 485	Def 71 966
N. O. T. & M	18 344 273	973 131	368 726	19 686 130	1 322 570
P. H. & S. F	29 032 647	800 938	219 505	30 053 090	2 788 766
St. L. B. & M	16 940 227	514 876	197 239	17 652 342	2 160 815
St. L. S. F	404 394 589	4 657 848	9 026 773	418 079 210	21 867 133
St. L. S. F. & Tex	3 256 348	272 243	69 594	3 598 185	296 988
St. L. S. W	80 737 530	2 279 295	3 771 482	86 788 307	4 176 561
St. L. S. W. of Tex	38 339 239	1 318 546	844 853	40 502 638	592 530
S. A. & A. P	26 327 477	1 029 997	656 362	28 013 836	b
T. & Ft. S	5 114 711	17 812	356 019	5 488 542	772 678
Texas & N. O	27 768 428	3 503 080	579 402	31 850 910	1 765 903
Texas & Pacific	136 684 234	4 072 950	4 509 716	145 266 900	5 974 105
V. S. & P	10 959 254	499 460	549 894	12 008 608	617 968

a—Data not available.
b—Included in G. H. & S. A
NOTE.—Property investment as of beginning of the year.

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1924

Property Investment and Net Railway Operating Income

Year Ended December 31, 1924

Railroad	Property investment, 701-702	Materials and supplies, 716	Cash, 708	Total property investment		Net railway operating income
Chicago & Alton	$149 244 904	$1 876 638	$2 412 294	$153 533 836		$4 394 793
C. & E. I	86 123 850	2 692 048	1 665 290	90 481 188		1 467 259
C. & N. W	484 818 748	14 847 278	22 055 633	521 721 659		16 784 051
C. B. & Q	564 276 870	24 457 394	9 777 131	598 511 395		28 742 112
C. G. W	137 091 552	1 672 475	1 418 142	140 182 169		2 234 046
C. M. & St. P	717 219 852	15 214 682	5 787 382	738 221 916		18 972 106
C. St. P. M. & O	87 508 451	2 250 873	1 566 367	91 325 691		3 408 989
Illinois Central	470 441 576	21 212 529	7 935 265	499 589 370		23 761 649
M. & St. L	65 066 442	1 649 115	682 072	67 397 629	Def	959 951
M. St. P. & S. S. M	212 863 879	5 241 717	506 236	218 611 832		6 776 158
Q. O. & K. C	6 499 366	.....	.....	6 499 366	Def	168 246
Wabash	233 957 893	5 790 715	3 276 986	243 025 594		9 347 780
A. T. & S. F	776 486 843	26 550 547	25 157 518	828 194 908		38 348 299
B. S. L. & W	3 379 409	.....	140 719	3 520 128		410 144
C. R. I. & G	19 115 041	303 996	58 633	19 477 670		1 522 199
C. R. I. & P	389 414 128	11 564 769	3 383 474	404 362 371		16 191 390
Ft. W. & D. C	30 418 296	961 017	1 968 673	33 347 986		3 832 662
G. H. & S. A	82 346 248	3 420 212	1 180 048	86 946 508		5 056 351
G. C. & S. F	63 419 914	3 320 014	2 325 270	69 065 198		6 241 010
H. & S	824 998	6 093	32 424	863 515		81 222
H. & T. C	45 745 755	1 482 672	519 560	47 747 987		2 521 887
H. E. & W. T	6 601 207	335 387	43 007	6 979 601		133 549
I. G. N	42 221 673	2 359 917	1 125 979	45 707 569		2 572 290
K. C. M. & O	22 314 908	260 975	312 118	22 888 001	Def	26 517
K. C. M. & O. of Tex	6 897 545	111 705	.....	7 009 250		168 719
K. C. S	101 894 687	2 285 791	1 731 497	105 911 975		3 021 319
K. O. & G	18 535 099	184 715	12 025	18 731 839		32 292
K. O. & G. of Tex	371 514	10 803	8 272	390 589		39 553
L. R. & N. Co	22 544 351	483 180	216 903	23 244 434	Def	255 291
L. R. & N. Co. of Tex	3 155 001	113 308	143 201	3 411 510	Def	49 710
La. Western	10 114 219	15 660	296 370	10 426 249		832 023
M. K. T	197 976 021	8 059 484	1 803 977	207 839 482		8 912 952

L. R. & N. Co	22 544 351	483 180	216 903	23 244 434	Def	255 291
L. R. & N. Co. of Tex	3 155 001	113 308	143 201	3 411 510	Def	49 710
La. Western	10 114 219	15 660	296 370	10 426 249		832 023
M. K. T.	197 976 021	8 059 484	1 803 977	207 839 482		8 912 952
M. K. T. of Tex	72 424 196	.....	695 804	73 120 000		3 674 546
Mo. Pac	399 630 349	13 963 480	1 904 094	415 497 923		15 817 584
M. L. & T	31 471 543	2 010 384	360 498	33 842 425	Def	97 950
N. O. T. & M	18 613 886	611 401	445 382	19 670 669		1 368 349
P. H. & S. F	27 587 915	679 127	278 366	28 545 408		2 693 970
St. L. B. & M	16 568 842	472 890	189 808	17 231 540		2 177 108
St. L. S. F	395 846 710	6 783 206	5 331 117	407 961 033		20 589 138
St. L. S. F. & Tex	3 223 356	397 954	55 593	3 676 903		221 809
St. L. S. W	79 527 913	2 265 014	1 985 679	83 778 606		4 160 359
St. L. S. W. of Tex	37 353 867	1 485 278	623 278	39 462 423		526 011
S. A. & A. P	25 432 422	917 727	828 716	27 178 865		752 236
T. & Ft. S	4 906 527	16 924	303 415	5 226 866		843 057
Texas & N. O	26 033 462	3 697 492	387 029	30 117 983		368 924
Texas & Pacific	132 597 718	4 681 830	2 552 058	139 831 606		5 801 611
V. S. & P	10 103 159	418 075	686 232	11 207 466		480 047

NOTE.—Property Investment as of beginning of the year.

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1923

Property Investment and Net Railway Operating Income
Year Ended December 31, 1923

Railroad	Property investment, 701-702	Materials and supplies, 716	Cash, 708	Total property investment	Net railway operating income
Chicago & Alton	$144 812 587	$1 348 836	$2 185 530	$148 346 953	$5 319 568
C. & E. I	83 565 341	2 293 883	1 069 708	86 928 932	3 324 116
C. & N. W	457 376 174	11 119 431	23 014 185	491 509 790	15 843 375
C. B. & Q	545 883 985	16 587 279	28 419 517	590 890 781	25 365 567
C. G. W	134 151 281	1 519 585	1 899 052	137 569 908	2 118 672
C. M. & St. P	697 674 890	13 330 148	5 681 897	716 686 935	20 167 713
C. St. P. M. & O	86 839 382	1 782 231	4 190 419	92 812 032	3 028 915
Illinois Central	419 562 924	13 022 310	10 469 752	443 054 986	22 906 244
M. & St. L	65 315 868	1 167 662	354 333	66 837 863	825 341
M. St. P. & S. S. M	208 036 152	4 647 485	4 143 520	216 827 157	8 204 096
Q. O. & K. C	6 403 466	.....	.....	6 403 466	Def. 180 299
Wabash	225 153 860	3 925 327	3 827 609	232 906 796	8 941 275
A. T. & S. F	728 350 197	25 193 164	36 169 633	789 712 994	40 815 194
B. S. L. & W	3 326 076	.....	176 546	3 502 622	362 274
C. R. I. & G	18 832 154	310 891	62 694	19 205 739	719 700
C. R. I. & P	375 364 494	9 910 884	6 286 958	391 562 336	14 121 464
Ft. W. & D. C	30 383 133	1 026 615	1 514 853	32 924 601	2 877 039
G. H. & S. A	80 867 440	2 485 159	1 428 952	84 781 551	2 281 547
G. C. & S. F	62 509 421	2 699 437	4 734 934	69 943 792	3 963 151
H. & S	806 293	Cr. 25 706	39 231	819 818	240 784
H. & T. C	45 320 076	769 099	479 074	46 568 249	2 069 211
H. E. & W. T	5 982 526	356 623	40 704	6 379 853	111 350
I. G. N	40 662 986	1 903 019	1 152 589	43 718 594	2 176 504
K. C. M. & O	22 262 277	268 182	312 734	22 843 193	50 510
K. C. M. & O. of Tex	6 900 454	87 434	.....	6 987 888	Def. 70 610
K. C. S	98 453 318	2 130 824	2 669 157	103 253 299	2 682 831
K. O. & G	18 185 265	173 500	402 612	18 761 377	245 275
K. O. & G. of Tex	371 812	5 165	8 357	385 334	Def. 10 629
L. R. & N. Co	22 270 698	458 989	249 378	22 979 065	129 676
L. R. & N. Co. of Tex	.....	.....	.....	.....	40 534
La. Western	10 093 352	23 417	290 796	10 407 565	932 135
M. K. T	197 485 046	4 226 001	619 668	202 330 715	7 641 334
M. K. T. of Tex	76 410 139	3 660 511	703 086	80 773 736	1 256 035
Mo. Pac	388 039 609	9 467 117	4 733 873	402 240 929	8 893 245

K. O. & G. of Tex	371 812	5 165	8 357	385 334	Def.	10 629
L. R. & N. Co	22 270 698	458 989	249 378	22 979 065		129 676
L. R. & N. Co. of Tex	.....	.....	.....	.....		40 534
La. Western	10 093 352	23 417	290 796	10 407 565		932 135
M. K. T	197 485 046	4 226 001	619 668	202 330 715		7 641 334
M. K. T. of Tex	76 410 139	3 660 511	703 086	80 773 736		1 256 035
Mo. Pac	388 039 609	9 467 447	4 733 873	402 240 929		8 893 245
M. L. & T	30 596 759	1 740 194	479 597	32 816 550		234 154
N. O. T. & M	18 211 441	478 778	658 886	19 349 105		1 176 275
P. H. & S. F	27 206 193	1 048 661	417 054	28 671 908		1 258 046
St. L. B. & M	16 393 985	548 071	342 048	17 284 104		1 905 563
St. L. S. F	379 860 373	6 967 618	5 118 215	391 946 206		18 484 458
St. L. S. F. & Tex	3 127 966	347 388	75 607	3 550 961		36 800
St. L. S. W	76 918 680	2 245 222	2 954 857	82 118 759		6 111 138
St. L. S. W. of Tex	35 209 888	1 587 688	352 181	37 149 757	Def.	546 337
S. A. & A. P	24 861 576	771 444	944 109	26 577 129		849 287
T. & Ft. S	4 851 629	.....	378 834	5 230 463		854 269
Texas & N. O	25 027 246	3 488 319	525 681	29 041 246	Def.	378 278
Texas & Pacific	127 767 726	4 598 070	3 876 096	136 241 892		5 237 535
V. S. & P	9 909 708	378 712	575 830	10 864 250		690 832

a—Operated by M. K. & T. Ry. prior to April 1, 1923. Net Railway Operating Income is for nine months ended December 31, 1923.
NOTE.—Property Investment as of beginning of the year.

1922

Property Investment and Net Railway Operating Income

Year Ended December 31, 1922

Railroad	Property investment, 701-702	Materials and supplies, 716	Cash, 708	Total property investment	Net railway operating income
Chicago & Alton	$143 880 763	$1 519 694	$880 065	$146 280 522	$1 532 188
C. & E. I	83 588 705	3 104 505	3 052 012	89 745 222	2 721 469
C. & N. W	455 584 636	12 401 142	22 240 899	490 226 677	17 036 305
C. B. & Q	526 045 661	21 350 910	9 307 988	556 704 559	25 152 174
C. G. W	133 670 893	1 813 594	2 457 896	137 942 383	265 187
C. N. & St. P	674 359 676	15 489 394	7 729 919	697 569 989	13 284 245
C. St. P. M. & O	86 370 096	1 830 742	1 969 362	90 170 200	3 812 671
Illinois Central	402 841 207	13 477 497	8 021 082	424 339 786	25 121 128
M. & St. L	65 297 069	1 340 502	395 860	67 033 431	883 800
M. St. P. & S. S. M	205 579 670	7 496 568	3 185 216	216 261 454	7 178 972
Q. O. & K. C	6 329 830	.....	.....	6 329 830	Def. 168 319
Wabash	223 666 773	5 150 410	3 265 896	232 083 079	4 107 421
A. T. & S. F	707 617 341	33 257 785	28 925 301	769 800 427	35 509 009
B. S. L. & W	3 284 855	.....	65 531	3 350 386	263 608
C. R. I. & G	18 590 496	344 469	46 077	18 981 042	722 101
C. R. I. & P	372 906 202	11 490 316	10 213 556	394 610 074	13 934 469
Ft. W. & D. C	28 526 338	1 230 708	2 293 107	32 050 153	2 438 054
G. H. & S. A	79 577 073	3 638 461	745 761	83 961 295	1 994 775
G. C. & S. F	61 648 645	3 222 989	4 428 531	69 300 165	4 192 458
H. & S	752 107	25 758	26 163	804 028	178 959
H. & T. C	45 003 863	1 378 830	632 129	47 014 822	2 022 081
H. E. & W. T	5 814 926	450 152	17 600	6 282 678	141 949
I. G. N	43 081 269	2 400 053	411 277	45 892 599	1 318 388
K. C. M. & O	22 234 426	287 936	697 897	23 220 259	Def. 151 222
K. C. M. & O. of Tex	6 893 017	108 461	.....	7 001 478	Def. 323 671
K. C. S	97 589 682	2 317 930	1 823 648	101 731 260	2 928 772
K. O. & G	13 255 607	198 502	239 947	13 694 056	526 254
K. O. & G. of Tex	376 126	6 187	1 189	383 502	Def. 1 851
L. R. & N. Co	21 982 211	374 330	222 325	22 578 866	88 637
L. R. & N. Co. of Tex. (a)	.....	.....	.....	.....	.....
La. Western	10 073 343	24 236	218 242	10 315 821	854 739
M. K. T	188 602 613	4 706 388	1 537 439	194 846 440	9 204 092
M. K. T. of Tex	72 888 667	4 183 885	1 674 108	78 746 660	1 280 467
Mo. Pac	382 277 853	11 221 087	1 041 091	[illegible]	[illegible]

K. O. & G. of Tex	376 126	6 187	1 189	383 502	Def. 1 851
L. R. & N. Co	21 982 211	374 330	222 325	22 578 866	88 637
L. R. & N. Co. of Tex. (a)	.....	.....	.....	.....	.....
La. Western	10 073 343	24 236	218 242	10 315 821	854 739
M. K. T	188 602 613	4 706 388	1 537 439	194 846 440	9 204 092
M. K. T. of Tex	72 888 667	4 183 885	1 674 108	78 746 660	1 280 467
Mo. Pac	382 277 853	11 221 087	1 941 991	395 440 931	8 247 035
M. L. & T	30 145 061	1 879 467	388 198	32 412 726	13 016
N. O. T. & M	17 964 873	585 089	539 006	19 088 968	1 344 567
P. H. & S. F	26 948 903	1 574 360	232 521	28 755 784	236 615
St. L. B. & M	16 271 631	580 592	198 429	17 050 652	1 142 882
St. L. S. F	374 049 124	7 583 982	6 584 279	388 217 385	15 490 000
St. L. S. F. & Tex	3 099 127	449 758	47 438	3 596 323	8 504
St. L. S. W	76 037 230	3 000 384	1 316 177	80 353 791	5 666 588
St. L. S. W. of Tex	34 395 610	2 030 491	414 989	36 841 090	Def. 1 279 763
S. A. & A. P	24 584 032	817 889	520 823	25 922 744	253 430
T. & Ft. S	4 779 866	.....	85 086	4 864 952	470 083
Texas & N. O	24 615 039	4 557 548	353 189	29 525 776	Def. 91 054
Texas & Pacific	125 607 102	5 512 628	2 360 271	133 480 001	3 629 472
V. S. & P	9 753 362	469 806	425 360	10 648 528	368 823

a—Operated by M. K. & T. Ry. prior to April 1, 1923.

NOTE.—Property investment as of beginning of the year.

1925

Railway Operating Revenue and Expenses

Year Ended December 31, 1925

Railroad	Average miles operated	Railway operating revenue	Railway operating expenses	Net revenue from railway operations	Operating ratio	Railway tax accruals	Uncollectible railway revenue
Chicago & Alton	1 055.92	$31 077 084	$23 426 972	$7 650 112	75.4%	$1 282 761	$8 257
C. & E. I	945.13	26 574 508	22 083 610	4 490 898	83.1%	1 395 000	11 642
C. & N. W	8 467.56	148 538 269	115 626 055	32 912 214	77.8%	10 004 224	46 873
C. B. & Q	9 398.62	159 155 178	116 671 869	42 483 309	73.3%	10 975 481	49 943
C. G. W	1 496.06	24 502 760	19 812 718	4 690 042	80.9%	1 000 262	3 849
C. M. & St. P	11 204.99	162 020 693	130 449 632	31 571 061	80.5%	8 938 834	66 064
C. St. P. M. & O	1 845.19	26 850 133	21 480 708	5 369 425	80.0%	1 553 004	18 328
Illinois Central	4 874.95	153 503 185	117 904 258	35 598 927	76.8%	10 907 474	34 444
M. & St. L	1 634.77	15 074 273	13 220 168	1 854 105	87.7%	760 858	3 032
M. St. P. & S. S. M	4 401.57	49 670 264	36 075 537	13 594 727	72.6%	3 264 545	7 687
Q. O. & K. C	250.84	1 010 855	1 093 490	Def. 82 635	108.2%	56 597	19
Wabash	2 524.20	69 910 301	51 080 424	18 829 877	73.1%	3 287 580	7 069
A. T. & S. F	9 190.49	196 439 057	134 797 467	61 641 590	68.6%	15 906 421	57 211
B. S. L. & W	118.75	2 083 705	1 855 015	948 690	66.2%	93 786	5 599
C. R. I. & G	459.91	6 284 573	4 527 790	1 756 783	72.0%	286 820	1 702
C. R. I. & P	7 568.63	124 398 673	96 241 697	28 156 976	77.4%	6 750 950	74 342
Ft. W. & D. C	476.24	11 504 381	7 155 031	4 349 350	62.2%	724 668	3 444
G. H. & S. A	2 101.62	29 540 520	23 358 920	6 181 600	79.1%	1 346 497	26 913
G. C. & S. F	1 908.84	29 252 164	21 495 878	7 756 286	73.5%	1 102 752	10 779
H. & S	a	.....	.....	.....	.....	.....	.....
H. & T. C	929.19	14 775 807	11 242 464	3 533 343	76.1%	823 455	7 318
H. E. & W. T	191.60	3 387 763	2 443 042	944 721	72.1%	156 286	2 144
I. G. N	1 159.50	17 083 748	13 517 750	3 565 998	79.1%	515 759	2 067
K. C. M. & O	272.20	2 411 096	2 278 996	132 100	94.5%	75 988	1 101
K. C. M. & O. of Tex	465.75	3 189 212	2 626 284	562 928	82.3%	83 619	1 712
K. C. S	777.63	18 231 458	12 944 903	5 286 555	71.0%	1 155 133	8 804
K. O. & G	314.42	2 518 478	2 259 591	258 887	89.7%	106 429	672
K. O. & G. of Tex	a	.....	.....	.....	.....	.....	.....
L. R. & N. Co	337.63	3 859 607	3 185 713	673 894	82.5%	253 302	2 006
L. R. & N. Co. of Tex	206.08	1 347 257	1 090 770	256 487	81.0%	46 868	340
La. Western	207.74	4 274 112	3 164 405	1 109 707	74.0%	329 760	1 006
M. K. T	1 799.31	35 325 003	22 861 649	12 463 354	64.7%	2 135 140	13 585
M. K. T. of Tex	1 389.23	22 167 911	16 756 479	5 411 432	75.6%	732 450	11 839
Mo. Pac	7 337.62	130 831 661	102 276 499	28 555 162	78.2%	5 266 438	35 485
M. L. & T	400.67	8 503 946	7 569 522	934 424	89.0%	600 252	5 983

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1925

Railway Operating Revenue and Expenses

Year Ended December 31, 1925

Railway operating revenue	Railway operating expenses	Net revenue from railway operations	Operating ratio	Railway tax accruals	Uncollectible railway revenue	Equipment rents, net debit	Joint facility rents, net debit	Railway operating income
$31 077 084	$23 426 972	$7 650 112	75.4%	$1 282 761	$8 257	$979 443	$831 780	$4 547 871
26 574 508	22 083 610	4 490 898	83.1%	1 395 000	11 642	599 808	336 181	2 148 267
148 538 269	115 626 055	32 912 214	77.8%	10 004 224	46 873	1 521 556	230 811	21 108 750
159 155 178	116 671 869	42 483 309	73.3%	10 975 481	49 943	1 316 139	2 009 829	28 131 917
24 502 760	19 812 718	4 690 042	80.9%	1 000 262	3 849	701 535	896 483	2 087 913
162 020 693	130 449 632	31 571 061	80.5%	8 938 834	66 064	3 351 758	2 340 769	16 873 636
26 850 133	21 480 708	5 369 425	80.0%	1 553 004	18 328	172 029	404 445	3 221 619
153 503 185	117 904 258	35 598 927	76.8%	10 907 474	34 444	Cr. 580 769	123 912	25 113 866
15 074 273	13 220 168	1 854 105	87.7%	760 858	3 032	628 022	98 328	363 865
49 670 264	36 075 537	13 594 727	72.6%	3 264 545	7 687	694 153	669 112	8 959 230
1 010 855	1 093 490	Def. 82 635	108.2%	56 597	19	11 213	25 810	Def. 176 274
69 910 301	51 080 424	18 829 877	73.1%	3 287 580	7 069	1 898 674	1 384 039	12 252 515
196 439 057	134 797 467	61 641 590	68.6%	15 906 421	57 211	Cr. 566 123	637 756	45 606 325
2 083 705	1 855 015	948 690	66.2%	93 786	5 599	479 215	136 301	233 789
6 284 573	4 527 790	1 756 783	72.0%	286 820	1 702	195 343	39 574	1 233 344
124 398 673	96 241 697	28 156 976	77.4%	6 750 950	74 342	3 241 482	1 397 162	16 693 040
11 504 381	7 155 031	4 349 350	62.2%	724 668	3 444	78 771	20 694	3 521 773
29 540 520	23 358 920	6 181 600	79.1%	1 346 497	26 913	909 820	Cr. 85 187	3 983 557
29 252 164	21 495 878	7 756 286	73.5%	1 102 752	10 779	1 280 902	90 252	5 271 601
.....	.....	.....	.....	.....	.....	.....	.....	.....
14 775 807	11 242 464	3 533 343	76.1%	823 455	7 318	786 133	Cr. 203 867	2 120 304
3 387 763	2 443 042	944 721	72.1%	156 286	2 144	206 254	9 717	570 320
17 083 748	13 517 750	3 565 998	79.1%	515 759	2 067	741 500	67 015	2 239 657
2 411 096	2 278 996	132 100	94.5%	75 988	1 101	Cr. 15 848	14 287	56 572
3 189 212	2 626 284	562 928	82.3%	83 619	1 712	445 050	75	32 472
18 231 458	12 944 903	5 286 555	71.0%	1 155 133	8 804	228 764	173 106	3 720 748
2 518 478	2 259 591	258 887	89.7%	106 429	672	145 938	Cr. 511	6 359
.....	.....	.....	.....	.....	.....	.....	.....	.....
3 859 607	3 185 713	673 894	82.5%	253 302	2 006	399 797	Cr. 12 410	31 199
1 347 257	1 090 770	256 487	81.0%	46 868	340	153 424	52 942	2 913
4 274 112	3 164 405	1 109 707	74.0%	329 760	1 006	109 044	18 006	651 891
35 325 003	22 861 649	12 463 354	64.7%	2 135 140	13 585	Cr. 488 166	410 137	10 392 658
22 167 911	16 756 479	5 411 432	75.6%	732 450	11 839	1 964 844	269 333	2 432 966
130 831 661	102 276 490	28 555 162	78.2%	5 266 438	35 485	3 919 458	1 329 717	18 913 961

R. O. & G. of Tex.	a						
L. R. & N. Co.	337.63	3 859 607	3 185 713	673 894	82.5%	253 302	2 006
L. R. & N. Co. of Tex.	206.08	1 347 257	1 090 770	256 487	81.0%	46 868	340
La. Western	207.74	4 274 112	3 164 405	1 109 707	74.0%	329 760	1 006
M. K. T.	1 799.31	35 325 003	22 861 649	12 463 354	64.7%	2 135 140	13 585
M. K. T. of Tex.	1 389.23	22 167 911	16 756 479	5 411 432	75.6%	732 450	11 839
Mo. Pac.	7 337.62	130 831 661	102 276 499	28 555 162	78.2%	5 266 438	35 485
M. L. & T.	400.67	8 503 946	7 569 522	934 424	89.0%	609 352	5 863
N. O. T. & M.	191.22	3 442 446	2 578 406	864 040	74.9%	241 187	7 887
P. H. & S. F.	863.88	11 251 307	7 248 383	4 002 924	64.4%	555 868	3 575
St. L. B. & M.	550.22	8 169 097	5 179 661	2 989 436	63.4%	396 209	4 284
St. L. S. F.	4 916.26	90 058 611	62 327 124	27 731 487	69.2%	4 901 633	38 269
St. L. S. F. & Tex.	137.95	2 204 156	1 578 073	626 083	71.6%	28 679	1 587
St. L. S. W.	943.02	18 232 233	12 372 182	5 860 051	67.9%	803 483	2 193
St. L. S. W. of Tex.	807.20	7 900 029	7 553 676	346 353	95.6%	332 906	3 339
S. A. & A. P.	b						
T. & Ft. S.	81.08	2 933 697	1 640 900	1 292 797	55.9%	195 435	910
Texas & N. O.	541.49	11 095 852	8 533 534	2 562 318	76.9%	383 642	4 302
Texas & Pacific	1 952.96	35 272 899	26 453 802	8 819 097	75.0%	1 917 500	34 906
V. S. & P.	188.46	4 552 076	3 451 947	1 100 129	75.8%	322 621	1 127

a—Data not available.
b—Data shown for G. H. & S. A. includes S. A. & A. P.

3 859 607	3 185 713	673 894	82.5%	253 302	2 006		399 797	Cr. 12 410	31 199
1 347 257	1 090 770	256 487	81.0%	46 868	340		153 424	52 942	2 913
4 274 112	3 164 405	1 109 707	74.0%	329 760	1 006		109 044	18 006	651 891
35 325 003	22 861 649	12 463 354	64.7%	2 135 140	13 585	Cr.	488 166	410 137	10 392 658
22 167 911	16 756 479	5 411 432	75.6%	732 450	11 839		1 964 844	269 333	2 432 966
130 831 661	102 276 499	28 555 162	78.2%	5 266 438	35 485		3 910 458	1 329 717	18 013 064
8 503 946	7 569 522	934 424	89.0%	609 352	5 863		311 705	79 470	Def 71 966
3 442 446	2 578 406	864 040	74.9%	241 187	7 887	Cr.	709 934	2 330	1 322 570
11 251 307	7 248 383	4 002 924	64.4%	555 868	3 575		613 914	40 801	2 788 766
8 169 097	5 179 661	2 989 436	63.4%	396 209	4 284		295 545	130 583	2 160 815
90 058 611	62 327 124	27 731 487	69.2%	4 901 633	38 269		844 369	80 083	21 867 133
2 204 156	1 578 073	626 083	71.6%	28 679	1 587		145 647	153 182	296 988
18 232 233	12 372 182	5 860 051	67.9%	803 483	2 193		15 627	862 187	4 176 561
7 900 029	7 553 676	346 353	95.6%	332 906	3 339	Cr.	173 447	Cr. 408 975	592 530
2 933 697	1 640 900	1 292 797	55.9%	195 435	910		358 552	Cr. 34 778	772 678
11 095 852	8 533 534	2 562 318	76.9%	383 642	4 302		374 256	34 215	1 765 903
35 272 899	26 453 802	8 819 097	75.0%	1 917 500	34 906		835 131	57 455	5 974 105
4 552 076	3 451 947	1 100 129	75.8%	322 621	1 127		153 905	4 508	617 968

A. & A. P.

[fol. 1257]

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1925

Freight Traffic Statistics

Year Ended December 31, 1925

	Western trunk lines	Texas and Louisiana lines	Other Southwestern lines	All Southwestern lines
Average Miles of Road Operated (Freight Service)	47 850	14 366	34 335	48 701
Freight Revenue	$655 159 021	$174 139 268	$483 405 600	$657 544 868
Ton Miles Revenue Freight	63 913 460 000	12 823 916 000	39 074 949 000	51 899 865 000
Revenue Per Ton Mile—Mills	10.24	13.58	12.37	12.67
Average per mile of road				
Freight Revenue	$13 692	$12 122	$14 079	$13 502
Ton Miles Revenue Freight	1 335 704	892 657	1 138 050	1 065 663

NOTE.—The grouping of railroads used in this exhibit is the same as shown on page 5 of Exhibit A-54, except—
"Texas and Louisiana Lines" and "All Southwestern Lines" include F. & A.—I. & V.—L. C. & N.—O. & N. W.
"Other Southwestern Lines" include C. R. I. & G.—Panhandle & Santa Fe and Texarkana & Fort Smith.

1925

Freight Traffic Statistics

Year Ended December 31, 1925

Railroad	Average miles of road operated (freight service)	Freight revenue (account 101)	Ton-miles revenue freight	Revenue per ton-mile, mills
Chicago & Alton	1 021.94	$21 827 472	2 143 419 000	10.18
C. & E. I	945.13	19 924 410	2 354 728 000	8.46
C. & N. W	8 467.56	104 888 463	8 286 548 000	12.66
C. B. & Q	9 333.23	118 670 808	12 298 288 000	9.65
C. G. W	1 459.87	18 884 285	1 966 894 000	9.58
C. M. & St. P	11 201.47	125 671 654	11 966 830 000	10.50
C. St. P. M. & O	1 822.23	19 566 923	1 579 746 000	12.39
Illinois Central	4 845.07	117 239 589	13 309 895 000	8.81
M. & St. L	1 632.77	13 021 838	1 216 604 000	10.70
M. St. P. & S. S. M	4 372.91	39 419 822	3 509 842 000	11.23
Q. O. & K. C	250.84	724 224	47 119 000	15.37
Wabash	2 496 97	55 329 533	5 233 547 000	10.57
A. T. & S. F (b)	10 054.37	150 520 331	11 474 824 000	13.12
B. S. L. & W (c)	.....	.....	.....	.....
C. R. I. & G (d)	.....	.....	.....	.....
C. R. I. & P (d)	8 028.21	95 923 398	7 912 864 000	12.12
Ft. W. & D. C	474.41	8 480 189	571 349 000	14.84
G. H. & S. A (e)	.....	.....	.....	.....
Gulf Coast Lines (c)	921.74	11 787 381	853 294 000	13.81
G. C. & S. F	1 897.07	24 347 900	2 386 980 000	10.20
H. & S (e)	.....	.....	.....	.....
H. & T. C (e)	.....	.....	.....	.....
H. E. W. & T (e)	.....	.....	.....	.....
I. G. N	1 159.50	13 176 199	775 016 000	17.00
K. C. M. & O	272.20	2 215 857	163 368 000	13.56
K. C. M. & O. of Tex	465.75	2 892 846	166 764 000	17.35
K. C. S (f)	848.78	17 439 572	1 592 311 000	10.95
K. O. & G	314.42	2 384 285	187 810 000	12.70
K. O. & G. of Tex (a)				

K. O. & G.	314.42	2 384 285	187 810 000	12.70
K. O. & G. of Tex. (a)	.....	.....	.....	.....
L. R. & N. Co.	334.46	3 407 690	223 770 000	15.23
L. R. & N. of Tex.	204.77	1 172 926	79 953 000	14.67
La. Western (e)	.....	.....	.....	.....
M. K. T.	1 787.16	27 849 538	2 074 062 000	13.43
M. K. T. of Tex.	1 389.23	15 928 105	1 243 033 000	12.81
Mo. Pac.	7 277.85	104 319 277	9 564 443 000	10.91
M. L. & T. (e)	.....	.....	.....	.....
N. O. T. & M. (c)	.....	.....	.....	.....
P. H. & S. F. (b)	.....	.....	.....	.....
St. L. B. & M. (c)	.....	.....	.....	.....
St. L. S. F.	4 822.66	67 094 090	4 976 312 000	13.48
St. L. S. F. & Tex.	137.95	1 971 407	86 459 000	22.80
St. L. S. W.	929.70	15 659 252	1 128 955 000	13.87
St. L. S. W. of Tex.	807.20	6 434 299	345 796 000	18.61
S. A. & A. P. (e)	.....	.....	.....	.....
Southern Pacific (e)	4 432.14	55 006 382	4 096 752 000	13.43
T. & Ft. S. (f)	.....	.....	.....	.....
Texas & N. O. (e)	.....	.....	.....	.....
Texas & Pacific	1 952.96	26 051 237	1 755 271 000	14.84
V. S. & P.	188.46	3 482 707	239 479 000	14.54

a—Data not available.
b—Data shown for A. T. & S. F. includes Panhandle & Santa Fe.
c—Data shown for Gulf Coast Lines includes B. S. L. & W—N. O. T. & M.—O. & N. W.—St. L. B. & M.
d—Data shown for C. R. I. & P. includes C. R. I. & G.
e—Data shown for Southern Pacific Lines in Texas and Louisiana includes:
F. & A.—G. H. & S. A.—H. & S.—H. & T. C.—H. E. & W. T.—I. & V.—L. C. & N.—Louisiana Western—M. L. & T.—S. A. & A. P. and T. & N. O.
f—Data shown for K. C. S. includes Texarkana & Fort Smith.

[fol. 1259]

I. C. C. Docket 15234

Miscellaneous Freight Service Revenue

(Accounts 110, 112, 135, 137, 139, and 140)

1922-1923

Railroad	Year ended December 31, 1922	Year ended December 31, 1923	Railroad	Year ended December 31, 1922	Year ended December 31, 1923
Chic ago & Alton	$551 951	$573 421	K. C. M. & O	$20 014	$15 819
C. & E. I	348 191	371 616	K. C. M. & O. of Tex	9 046	8 967
C. & N. W	3 153 851	3 643 556	K. C. S	740 724	830 378
C. B. & Q	3 278 071	3 721 464	K. O. & G	23 406	19 865
C. G. W	367 084	391 410			
			K. O. & G. of Tex	216	292
C. M. & St. P	3 563 995	4 349 277	L. R. & N	82 268	85 501
C. St. P. M. & O	346 695	342 958	L. R. & N. Co. of Tex	.....	a 10 830
Illinois Central	2 227 464	2 647 713	La. Western	24 583	26 418
M. & St. L	194 653	246 963	M. K. T	371 764	466 361
M. St. P. & S. S. M	421 254	438 097			
			M. K. T. of Tex	260 464	267 014
Q. O. & K. C	6 258	6 774	Mo. Pac	2 000 786	2 275 214
Wabash	1 126 547	1 566 460	M. L. & T	174 646	190 042
			N. O. T. & M	13 104	9 080
A. T. & S. F	1 748 281	1 966 225	P. H. & S. F	28 462	24 472
B. S. L. & W	11 185	14 812			
C. R. I. & G	113 808	112 469	St. L. B. & M	21 579	30 995
C. R. I. & P	1 223 527	1 339 150	St. L. S. F	1 207 484	1 409 312
F. W. & D. C	73 165	89 087	St. L. S. F. & Tex	19 025	14 599
			St. L. S. W	124 194	155 187
G. H. & S. A	96 399	232 764	St. L. S. W. of Tex	75 673	95 860
G. C. & S. F	270 597	239 206			
H. & S	9 000	12 590	S. A. & A. P	57 867	73 359
H. & T. C	202 999	194 743	T. & Ft. S	82 328	135 761
H. E. & W. T	31 407	39 587	Texas & N. O	125 578	174 046
			Texas & Pacific	245 970	310 103
I. G. N	438 692	529 495	V. S. & P	64 239	78 551

a—For nine months ended December 31, 1923.

Page 18

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Corrections in Exhibits A-52 and A-53

	Exhibit A-52				Exhibit A-53	
	Year ended December 31, 1923				Year ended December 31, 1922	
	Chicago & Alton R. R.		Missouri-Kansas-Texas R. R.		Missouri-Kansas-Texas R. R. of Texas	
	Exhibit reads	Correct to read	Exhibit reads	Correct to read	Exhibit reads	Correct to read
Page 3:						
Freight Revenue	.....	.....	$20 522 029	$25 722 029	$14 002 696	$14 602 696
Net Freight Revenue	.....	.....	1 735 255	6 935 255	2 652 383	3 252 383
Operating Ratio—Freight	.....	.....	91.54%	73.04%	81.06%	77.73%
Page 4:						
Tons Revenue Freight	13 499 429	13 507 046	.....	.....	.....	.....
Ton Miles Revenue Freight	2 435 688 198	2 436 637 051	.....	.....	.....	.....
Freight Revenue per Ton	$1.791	$1.779	$2.739	$3.433	.....	.....
Revenue Per Ton Mile—Mills	.....	.....	10.72	13.44	16.56	17.27
Averages Per Loaded Freight Car Mile:						
Revenue	.....	.....	21.4c	26.8c	31.5c	32.8c
Expenses	.....	.....	19.6c	19.6c	25.5c	25.5c
Net Revenue	.....	.....	1.8	7.2	6.0	7.3
Freight Revenue and Expenses Per 1 000 000 Net Ton Miles:						
Revenue	$9 865	$9 861	$10 723	$13 440	$16 562	$17 272
Expenses	7 585	7 582	9 816	9 816	13 425	13 425
Net Revenue	2 280	2 279	907	3 624	3 137	3 847
Page 5:						
Averages per Mile of Road:						
Ton Miles Revenue Freight	2 318 820	2 319 723	.....	.....	.....	.....
Freight Revenue	.....	.....	$11 396	$14 284	$8 057	$8 403
Operating Expenses—Freight	.....	.....	10 432	10 432	6 531	6 531
Net Freight Revenue			964	3 852	1 526	1 872
Page 6:						
Averages per Freight Train Mile:						
Tons Revenue Freight	592	593	.....	.....		

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Corrections in Exhibits A-52 and A-53

	Exhibit A-52				Exhibit A-53	
	Year ended December 31, 1923				Year ended December 31, 1922	
	Chicago & Alton R. R.		Missouri-Kansas-Texas R. R.		Missouri-Kansas-Texas R. R. of Texas	
	Exhibit reads	Correct to read	Exhibit reads	Correct to read	Exhibit reads	Correct to read
Page 3:						
Freight Revenue	.....	.....	$20 522 029	$25 722 029	$14 002 696	$14 602 696
Net Freight Revenue	.....	.....	1 735 255	6 935 255	2 652 383	3 252 383
Operating Ratio—Freight	.....	.....	91.54%	73.04%	81.06%	77.73%
Page 4:						
Tons Revenue Freight	13 499 429	13 507 046	.....	.....	.....	.....
Ton Miles Revenue Freight	2 435 688 198	2 436 637 051	.....	.....	.....	.....
Freight Revenue per Ton	$1.791	$1.779	$2.739	$3.433	.....	.....
Revenue Per Ton Mile—Mills	.....	.....	10.72	13.44	16.56	17.27
Averages Per Loaded Freight Car Mile:						
Revenue	.....	.....	21.4c	26.8c	31.5c	32.8c
Expenses	.....	.....	19.6c	19.6c	25.5c	25.5c
Net Revenue	.....	.....	1.8	7.2	6.0	7.3
Freight Revenue and Expenses Per 1 000 000 Net Ton Miles:						
Revenue	$9 865	$9 861	$10 723	$13 440	$16 562	$17 272
Expenses	7 585	7 582	9 816	9 816	13 425	13 425
Net Revenue	2 280	2 279	907	3 624	3 137	3 847
Page 5:						
Averages per Mile of Road:						
Ton Miles Revenue Freight	2 318 820	2 319 723	.....	.....	.....	.....
Freight Revenue	.....	.....	$11 396	$14 284	$8 057	$8 403
Operating Expenses—Freight	.....	.....	10 432	10 432	6 531	6 531
Net Freight Revenue			964	3 852	1 526	1 872
Page 6:						
Averages per Freight Train Mile:						
Tons Revenue Freight	592	593	.....	.....		
Revenue	.....	.....	$6.30	$7.90	$5.98	$6.23
Expenses	.....	.....	5.77	5.77	4.85	4.85

Year ended December 31, 1923

	Western Trunk lines		Other Southwestern lines		All Southwestern lines		Other S
	Exhibit reads	Correct to read	Exhibit reads	Correct to read	Exhibit reads	Correct to read	Exhibit r
Page 2:							
Freight Revenue			$431 716 813	$436 916 813	$598 209 063	$603 409 063	$402 851
Net Freight Revenue			92 903 554	98 103 554	126 309 742	131 509 742	94 435
Tons Revenue Freight	296 923 381	296 930 998					
Ton Miles Revenue Freight	66 773 236 714	66 774 185 567					
Page 3:							
Averages per Mile of Road							
Freight Revenue			$18 201	$13 360	$12 344	$12 452	$12
Net Freight Revenue			2 841	3 000	2 606	2 714	2
Ton Miles Revenue Freight	1 398 978	1 398 998					
Averages per Million Revenue Net Ton Miles:							
Freight Revenue			$12 745	$12 898	$13 095	$13 209	$13
Net Freight Revenue			2 743	2 896	2 765	2 879	3
Page 4:							
Averages per Freight Train Mile:							
Freight Revenue			$6.20	$6.27	$6.27	$6.33	$
Operating Expenses—Freight			4.86	4.86	4.95	4.95	
Net Freight Revenue			1.34	1.41	1.32	1.38	
Averages per Loaded Freight Car Mile:							
Freight Revenue			25.5c	25.7c	26.4c	26.6c	
Operating Expenses—Freight			20.0	20.0	20.8	20.8	
Net Freight Revenue			5.5	5.7	5.6	5.8	
Miscellaneous Averages:							
Revenue Per Ton of Freight			$3.118	$3.156	$2.693	$2.717	$
Revenue Per Ton Mile—Mills			12.74	12.90	13.09	13.21	

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Corrections in Exhibit A-54

ded December 31, 1923					Year ended December 31, 1922			
k lines	Other Southwestern lines		All Southwestern lines		Other Southwestern lines		All Southwestern lines	
rrect to read	Exhibit reads	Correct to read	Exhibit reads	Correct to read	Exhibit reads	Correct to read	Exhibit reads	Correct to read
.....	$431 716 813	$436 916 813	$598 209 063	$603 409 063	$402 851 058	$403 451 058	$559 243 882	$559 843 882
.....	92 903 554	98 103 554	126 309 742	131 509 742	94 435 810	95 035 810	122 429 082	123 029 082
296 930 998	.....	.....	.....	.....	.....	.....	.....	.....
774 185 567	.....	.....	.....	.....	.....	.....	.....	.....
.....	$13 201	$13 360	$12 344	$12 452	$12 385	$12 403	$11 569	$11 581
.....	2 841	3 000	2 606	2 714	2 903	2 921	2 533	2 545
1 398 998	.....	.....	.....	.....	.....	.....	.....	.....
.....	$12 745	$12 898	$13 095	$13 209	$13 695	$13 716	$13 984	$14 000
.....	2 743	2 896	2 765	2 879	3 210	3 231	3 061	3 077
.....	$6.20	$6.27	$6.27	$6.33	$6.51	$6.52	$6.54	$6.55
.....	4.86	4.86	4.95	4.95	4.98	4.98	5.11	5.11
.....	1.34	1.41	1.32	1.38	1.53	1.54	1.43	1.44
.....	25.5c	25.7c	26.4c	26.6c	27.0c	27.1c	27.9c	28.0c
.....	20.0	20.0	20.8	20.8	20.7	20.7	21.8	21.8
.....	5.5	5.7	5.6	5.8	6.3	6.4	6.1	6.2
.....	$3.118	$3.156	$2.693	$2.717	$3.422	$3.427	$2.936	$2.939
.....	12.74	12.90	13.09	13.21	13.70	13.72	13.98	14.00

[fol. 1262] Cross-examination:

What I said about Mr. Press' exhibits including railroads such as the D. S. S. & A. and the L. S. & I. and the E. J. & E. in the Western Trunk Group and certain short lines in Southwestern Territory such as the M. & N. A. and the Midland Valley was not said in criticism, but I pointed out the difference between the two groups as set up in the two exhibits. The lines in the Southwestern Group were not respondents in this proceeding and the lines such as the E. J. & E. in Western Trunk Line are not respondents. It is a fact that in the division of the joint rates between the two territories on traffic moving over either the lines in question in Western Trunk Line Territory or the lines in question in Southwestern Territory. Those lines participate in the total joint through revenue by some scheme or another (Tr. 5669).

Q. Well, if your theory is that they are not respondents in the case wouldn't it be proper that they should be excluded from any order made in the case or rather that the traffic originating or destined to any of these lines not respondents should not be made subject to any order in this proceeding.

Attorney Towner here objected to the question on the ground that it was a question of law, but after discussion said that if it was a traffic question the witness might answer (Tr. 5670).

The Witness: I think the Commission can fix the divisions north and south of the principal gateways with reference to the territories and they have defined them in this proceeding. If the Commission fixes the divisions between these territories north and south of the principal gateways it necessarily will effect any lines and connections of this [fol. 1263] carrier that participate in joint rates. So far as Western Trunk Line all these short roads receive a part or a proportion of whatever revenue may fall north of the junction. I do not know what your arrangements with the Southwestern short lines may be, but presumably they are of the same nature (Tr. 5670-5671).

In some cases the divisions of the E. J. & E. and the Duluth, South Shore and other lines to the extent they par-

ticipate in this traffic or rather their revenue would be very slight changed by an order increasing the Western Trunk Line divisions and in other cases it would depend upon the nature of the division as to whether they received a minimum division which is now the measure of their earnings. Where they received a percentage it would be affected by any change in the revenue to which that per cent was applied. I made my exhibit up confining it to those carriers that by the Commission's order were made respondents here. There is quite a movement of steel and iron products from the Chicago district to Southwestern Territory and the E. J. & E. participates in the greater part of that. How much it may amount to I don't know, but it is a very small part of the total freight revenue of the E. J. & E. (Tr. 5671-5672).

The freight traffic interchanged between Western Trunk Lines and Southwestern Lines is a very small proportion of the entire traffic of the Western Trunk Lines. I think the figure that was put in the record here was 2½ per cent. In its volume it is pretty important traffic, nevertheless; but to state it in percentage it is not a very large percentage (Tr. 5672-5673).

I do not know why the particular lines that are respondents in this proceeding were named. I have not sufficient knowledge on the subject to answer the question. I don't [fol. 1264] know what the fact is. Probably the Commission itself must know but I proceeded from the orders that the Commission entered. The list of respondents was what I used in filing my exhibits.

The following is quoted verbatim from the transcript of testimony:

Q. Isn't it within your knowledge that the list as made up was probably suggested by the Western Trunk Lines to the Interstate Commerce Commission?

Exam. Disque: That list was made up by Mr. Potter and myself. We did not want to bring in the short lines in different parts of the west and have them petitioning us for increased division. This was started as a trunk line railroad proposition. It was started as a porposition to settle the disputes between the important carriers and that is the

reason we left out the small ones, also for the reason that we thought that it would simplify the case. Any divisions fixed for the large lines would ultimately control the divisions fixed for their smaller sisters. I might also say, as I remember it this case when first initiated with the Commission, the Commission had in mind that in the large divisional matters that might arise in the west it was necessarily to be confined to transcontinental situations. If there is any further explanation you want from me——

By Mr. Larimore:

Q. Was Mr. Potter on the Commission at that time?

Exam. Disque: Mr. Potter was on the Commission for a considerable time after that.

Mr. Larimore: I wanted the record to show that.

Exam. Disque: He was not an advocate for the Chicago, Milwaukee & St. Paul at that time (Tr. 5673-5674).

[fol. 1265] On Exhibits A-51 to A-54 the same division was made as to Texas and Louisiana lines and on the Southwestern Lines as was made in Exhibit A-241. There is a complete list of the roads in each group as I have grouped them on the last page of Exhibit A-54. I sought to group the roads where I could by geographical location. It so happens that many of the separately reported roads, particularly in Texas, operate either wholly or chiefly in that state, so it was possible to make a group that was fairly representative of the Texas lines. Louisiana is hardly a parallel case because there are only six lines operating, some less than 1,400 miles that could be classed strictly as Louisiana lines. The larger roads in that state appear in the group of "Other Southwestern Lines." It would be pretty hard to pick out the roads by states in Western Trunk Line Territory (Tr. 5675).

The southwestern short lines that I have named as having been left out of my computation represent a considerable mileage, but just what it is I have not figured out. As to whether or not the conditions existing on those lines have to be taken into consideration when considering the conditions in the Southwest; I think we have the principal trunk lines in the two territories and the comparison of the

results and the conditions of those two groups of the trunk lines gives about as complete a picture and as definite and fair a comparison to the conditions of the two territories as we could get. The operations of the short lines have some effect upon the rate level, for example. How much, of course, I don't know. I presume that most of the lines I have left out are weak lines. I have in mind one or two of them, the M. & N. A., but as to the general condition of all I do not know. I do not know whether the T. & B. V. is in receivership (Tr. 5676).

In Exhibit A-241 I have shown the total property in- [fol. 1266] vestment for the Southern Pacific Lines in Texas and Louisiana as $223,351,331 and that this was greater than the amount shown on page 8 of Exhibit A-124 by $1,167,926. I have explained that that difference was the property investment of the Houston and Shreveport which is included in my exhibit but not included in Exhibit A-124. The purpose of the statement was to explain the difference between the two exhibits as to those two roads. The only Southern Pacific Lines I have included in my figures are those shown on page 14 of Exhibit A-241 (Tr. 5677).

I did not check many of Mr. Sauer's computations based on Exhibit A-60, but where I did I found them correct. His exhibits set out the percentage, he undertook to show by percentages the relation of the revenues received by the Southwestern lines on traffic moving during June and October 1924 to the revenue which they would have received on the basis of a mileage prorate. My exhibit states it in another way by showing the constructive miles represented by their divisions compared with the actual mileages in western trunk line territory. In my exhibit it is a relation stated on a mileage basis, where his exhibit states it in a percentage of revenue. The ratio of the two comparisons would be the same. My exhibit was based on certain corrections in connection with Exhibit A-60; corrections in the statement of ton miles and revenue in the oil traffic from Oklahoma which made a slight difference in the figures in Exhibit A-196, and I used the corrected figures based upon those changes. The percentages or relations shown on my Exhibit A-242 would be a little higher than the figures shown on Mr. Sauer's Exhibit. The purpose of this exhibit was to

complete the comparison because Mr. Sauer in his exhibit only showed the percentage of mileage prorate that the [fol. 1267] Southwestern Lines received but he did not show the corresponding figure for the Western Trunk Lines, so no comparison was made. I do not show the percentage of the Western Trunk Line revenue. The exhibit is based upon taking each mile of haul of the Western Trunk Line and showing what revenue accrued to the Southwestern roads represented in constructive miles on the basis of actual miles in Western Trunk Line territory.

Q. I understand from your exhibit on page 4 under the present divisions on all carload traffic shown on exhibit A-60 that the Southwestern Lines receive 29 per cent more revenue than the Western Trunk Lines, in other words, the revenue of the Southwestern Lines is 129 per cent of that of the Western Trunk Line revenue for each mile of service.

Exam. Disque: On the traffic involved.
Mr. Outlaw: On the traffic shown on Exhibit A-60.
Exam. Disque: Not all traffic.
The Witness: Yes, the relation would be 100 for the Western Trunk Lines and 129.1 for the Southwestern Lines.

By Mr. Towner:

Q. Is that revenue or mileage percentage?
A. Revenue, but reduced to a mileage basis (Tr. 5677-5678-5679).

The traffic density and rate levels of the respective territories are two of the factors to be taken into account in fixing divisions. I don't know that I could answer the question offhand as to whether or not Exhibit A-242 shows that the Southwestern Lines are receiving too much revenue, assuming that the rate levels in the Southwest are approximately 140 to 150 per cent of those in Western Trunk Line Territory ranges from about the same amount, 150 per cent of that in Southwestern Territory. I have studied this case for some time. I am not prepared to express an opinion in regard to that question. I think Exhibit A-242 has given [fol. 1268] consideration to the difference in the rate levels north and south of the gateways where we could get real comparisons of those rate levels (Tr. 5680).

The errors in the previous exhibits offered by the Western Trunk Lines to which I have referred were not very numerous. I think there were three in my exhibit.

By Exam. Disque:

If the figure of 129 were reduced to 125 would that materially reflect the revenues north of St. Louis and Kansas City?

A. That would be hard to answer, but seemingly it would not.

By Mr. Muckley:

Q. If it was increased to 135 would that have a material effect?

A. The answer I could give to that question would be that a change upward would probably be about the same as a corresponding change downward, but what it would amount to I would not attempt to say without figuring it out (Tr. 5681).

S. G. Grace was thereupon recalled as a witness and testified as follows:

Direct examination:

I desire to offer exhibit No. A-243 which consists of six pages and shows divisions east and west of Kansas City, also East St. Louis of the through class rates from Chicago to six points in Oklahoma named in exhibit No. A-181.

Here Attorney Larimore objected to the exhibit because it showed on its face that it was not rebuttal. The Examiner said that if it were not rebuttal Attorney Larimore would be given a change to rebut it (Tr. 5681-5682).

The Witness (continuing): In the first block is shown the through rates and present divisions east and west of Kansas City, and the percentage that the revenue accruing to [fol. 1269] lines east and west of Kansas City, and the percentage that the revenue accruing to lines east and west of Kansas City is of the local rates; the local rates to and from Kansas City also being shown. In the four blocks immedi-

ately following the first block, is shown percentages and revenue east and west of Kansas City based on: Short line mileage prorate; Rate prorate using as factors average of local class rates east and west of Kansas City; Rate prorate using as factors east of Kansas City average of local rates and west of Kansas City average of rates under the proposed Disque scale in Docket No. 13535; Rate prorate using as factors east of Kansas City average of rates under proposed W. T. L. scale, and west of Kansas City average of local rates; rate prorate using east of Kansas City average of rates under proposed W. T. L. scale, and west of Kansas City average of rates under proposed Disque scale in Docket No. 13535 (Tr. 5682-5683).

Following this, in the sixth block is shown the present revenue east and west of East St. Louis and the percentage that the revenue, accruing to lines east and west of East St. Louis, is of the local rates; the local rates to and from East St. Louis being also shown. In the next following block is shown percentage of revenue east and west of East St. Louis based on short line mileage prorate, also based on rate prorate using as factors average of the local rates east and west of East St. Louis. In the last block is shown the average of the present revenue east and west of East St. Louis on ten classes, and the percentage that such average revenue in cents per hundred pounds is of the average of ten classes of through rate. Under the present basis of divisions, the lines west of Kansas City are allowed their full local rates, or in excess of their full local rates to the following extent: when traffic moves west of Kansas City [fol. 1270] via lines which have allowed lines east of Kansas City 14 per cent increase. Woodward, Oklahoma: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on three classes. Oklahoma City: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on six classes (Tr. 5683-5684).

Enid, Oklahoma: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on three classes. Ardmore, Oklahoma: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on one class.

Where traffic moves west of Kansas City via lines which have not allowed lines east of Kansas City 14 per cent increase. Woodward, Oklahoma: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on six classes. Muskogee, Oklahoma: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on seven classes. Oklahoma City: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on eight classes. Enid, Oklahoma: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on six classes. Ardmore, Oklahoma: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on three classes (Tr. 5684).

Lawton, Oklahoma: Lines west of Kansas City receive their full local rates or are allowed in excess off ull local rates on one class.

Lines east of Kansas City are allowed full local rates or in excess of full local rates on only two classes on traffic to Enid, and then, only when traffic moves west of Kansas City [fol. 1271] to those points via lines that have allowed 14 per cent inrcease east of Kansas City, and in no case are lines east of Kansas City allowed local rates or in excess of local rates when traffic moves west of Kansas City in connection with lines that have not allowed 14 per cent increase east of Kansas City. Averaging the percentage that revenue east and west of Kansas City is of the local rate on each class, it is found that west of Kansas City at four out of the six stations such average is over 100 per cent and the other two stations it is over 94 per cent, when traffic moves west of Kansas City via lines that have not allowed 14 per cent increase to lines east of Kansas City; and for the lines east of Kansas City highest average percentage is at Enid where it is 80.5 per cent and at the other five stations, average percentage for lines east of Kansas City is much lower, being as low as 59.9 per cent at Woodward (Tr. 5685).

The average of the present revenue on ten classes from Chicago to East St. Louis is 23.9 cents which represents 63.4 per cent of the average local rate on ten classes from Chicago to East St. Louis. Lines west of East St. Louis receive following average percentage of the average of local rates on ten classes: Woodward, Oklahoma, 91.6 per cent;

Muskogee, Oklahoma, 89.6 per cent; Oklahoma City, Oklahoma, 92 per cent; Enid, Oklahoma, 90.7 per cent; Ardmore, Oklahoma, 92.4 per cent; Lawton, Oklahoma, 92.5 per cent. Via Kansas City on either a mileage prorate or a rate prorate basis, the present percentages and revenue for lines east of Kansas City would be increased very substantially, in the case of Muskogee the percentages would be changed on mileage prorate basis from 34 per cent east and 66 per cent west, to 64 per cent east and 36 per cent west, approximately a reversal of the present percentages. Via East St. Louis [fol. 1272] the average revenue of 23.9 cents from Chicago to East St. Louis is on traffic to Woodward 18.6 per cent of the average ten classes of the through rate, on Muskogee it is 22.6 per cent, on Oklahoma City it is 19.4 per cent, on Enid it is 19.8 per cent, on Ardmore it is 17.3 per cent and on Lawton it is 17.2 per cent. On a mileage prorate basis these percentages from Chicago to East St. Louis would be changed (Tr. 5685-5686).

Woodward, Oklahoma, 30 per cent; Muskogee, Oklahoma, 37.8 per cent; Oklahoma City, Oklahoma, 33.8 per cent; Enid, Oklahoma, 33.7 per cent; Ardmore, Oklahoma, 30.7 per cent; Lawton, Oklahoma, 30.6 per cent. This represents a substantial increase in present percentages east of East St. Louis and on a rate prorate based on an average of ten classes the percentage east of East St. Louis would be changed to: Woodward, 24.8 per cent; Muskogee, 29.2 per cent; Oklahoma City, 25.8 per cent; Enid, 26.1 per cent; Ardmore, 23.4 per cent; Lawton, 23.2 per cent. This also represents a substantial increase in percentages for lines from Chicago to East St. Louis (Tr. 5687).

In Exhibit A-181 reference is made to a basis of divisions that shows a subdivision of the proportion east of Kansas City via East St. Louis of 50 per cent east of East St. Louis, also 47½ per cent east of East St. Louis. Using the 50 per cent factor and averaging the revenue on the ten classes and comparing such average revenue with the average of the ten class rates from Chicago to East St. Louis from East St. Louis to the Oklahoma points, the percentages that the average earnings are of the average of the local rates east and west of East St. Louis would be as follows: Woodward, Oklahoma—East 53.3 per cent, West 94.4 per cent; Enid, Oklahoma, East, 61 per cent, West 91 per cent; Okla-

[fol. 1273] homa City, East 52.5 per cent, West 94.3 per cent; Muskogee, Oklahoma, East, 40.9 per cent, West 98.3 per cent; Lawton, Oklahoma, East 45.6 per cent, West 97.2 per cent; Ardmore, Oklahoma, East 45.5 per cent, West 97.1 per cent. Using the 47.5 per cent factor, it would reduce the percentages east of East St. Louis and relatively increase the percentages west of East St. Louis.

I offer exhibit A-243 (Tr. 5687-5688).

(The statement described by the witness was thereupon received in evidence as Exhibit A-243.)

[fol. 1274] I desire to introduce exhibit No. A-244 which consists of five pages and shows divisions east and west of Kansas City, of the through rates, the through class rates from St. Louis to five points in Oklahoma named in exhibit No. A-181 (Tr. 5688).

In the first block is shown the through rates and present divisions east and west of Kansas City, and the percentage that the revenue accruing to lines east and west of Kansas City is of the local rates; the local rates to and from Kansas City also being shown. In the four blocks immediately following the first block, is shown percentages and revenue east and west of Kansas City based on: Short line mileage prorate; rate prorate using as factors average of local class rates east and west of Kansas City; rate prorate using as factors east of Kansas City average of local rates and west of Kansas City average of rates under the proposed Disque scale in Docket No. 13535; rate prorate using as factors east of Kansas City average of rates under proposed W. T. L. scale, and west of Kansas City average of local rates; rate prorate using east of Kansas City average of rates under proposed W. T. L. scale, and west of Kansas City average of rates under proposed Disque scale in Docket No. 13535.

Under the present basis of divisions, the lines west of Kansas City are allowed their full local rates, or in excess of their full local rates to the following extent (Tr. 5689):

When traffic moves west of Kansas City via lines which have allowed lines east of Kansas City 14 per cent increase: Woodward, Oklahoma: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on two classes; Oklahoma City; Lines west of Kansas

City receive their full local rates or are allowed in excess of [fol. 1275] full local rates on one class. Where traffic moves west of Kansas City via lines which have not allowed lines east of Kansas City 14 per cent increase; Woodward, Oklahoma: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on five classes; Muskogee, Oklahoma: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on two classes; Oklahoma City: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on five classes; Enid, Oklahoma: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on three classes; Ardmore, Oklahoma: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on one class (Tr. 5689-5690).

Lines east of Kansas City, in no case are allowed local rates or in excess of local rates.

Averaging the percentages that revenue east and west of Kansas City is of the local rate on each class, it is found that west of Kansas City at two out of the five stations such average is over 100 per cent, at two stations is 98 per cent, and at one station is 93 per cent, when traffic moves west of Kansas City, via lines that have not allowed 14 per cent increase to lines east of Kansas City, and for the lines east of Kansas City highest average percentage is at Enid where it is 81 per cent and at the other four stations average percentage for lines east of Kansas City is such lower, being as low as 55.2 per cent at Woodward. Via Kansas City on either a mileage prorate or a rate prorate basis, the present percentages and revenue for lines east of Kansas City would be increased very substantially.

Taking the percentages east of Kansas City effective at the present time with the lines that have not allowed the 14 [fol. 1276] per cent increase effective July 1, 1925, a rate prorate basis would increase the percentages east of Kansas City as follows: Woodward, 60.5 per cent; Muskogee, 39.6 per cent; Oklahoma City, 32.1 per cent; Enid, 16.3 per cent; Ardmore, 14.5 per cent; as compared with a 14 per cent increase in the percentages allowed east of Kansas City effective July 1, 1925 (Tr. 5691-5692).

On a short line mileage prorate basis it would increase the percentages at: Woodward, 110.5 per cent; Muskogee, 80.4 per cent; Oklahoma City, 65.6 per cent; Enid, 45.3 per cent; Ardmore, 87.0 per cent.

I offer exhibit A-244 (Tr. 5692).

(The statement described by the witness was thereupon received in evidence as Exhibit A-244.)

I now desire to introduce Exhibit No. A-245. This exhibit shows the same information on two representative commodities from Chicago and Kenosha to Oklahoma points as shown in Exhibit No. A-243 covering the class rate adjustment from Chicago. Exhibit shows the through rate, the local rate and distance north and south of East St. Louis or Kansas City, the present division north and south of Kansas City or East St. Louis and also what the divisions would be north and south of Kansas City or East St. Louis on a short line mileage prorate and a rate prorate (Tr. 5692).

I offer Exhibit A-245 (Tr. 5692).

(The statement described by the witness was thereupon received in evidence as Exhibit A-245.)

[fol. 1277] I now desire to offer Exhibit No. A-246. Exhibit No. A-166 of Witness Sickel shows divisions and rates on cheese to Dallas, Texas. In Exhibit No. A-166 is shown a division basis stated as "Proposed Divisions" which contemplates that through rate of 155 cents from Wisconsin points to Dallas divides 45.4 cents per 100 pound- north of East St. Louis and $1.096 per 100 pound- south of East St. Louis which is arrived at by allowing lines south of East St. Louis 80 per cent of the Chicago rate of $1.37 per 100 pound- balance 45.4 north of East St. Louis. By order of the Interstate Commerce Commission in Docket No. 15880 the Chicago rate was projected north and west of Chicago and includes twelve stations in Wisconsin. The divisions stated as "Proposed Divisions" in Exhibit No. A-166 would allow the lines south of East St. Louis the same revenue out of the Chicago Rates applied from the Wisconsin points as from Chicago proper (Tr. 5693).

Divisions stated as "Proposed Divisions" in Exhibit A-166 does not contemplate any compensation to the lines

north of East St. Louis for their additional service from the Wisconsin cheese manufacturing points taking Chicago rates over and above the service from Chicago to East St. Louis. In Exhibit A-246 I have shown list of points in Wisconsin included in the Chicago group rate in Agent Leland's tariff I. C. C. No. 1799 and the short line distance from these Wisconsin points to East St. Louis. The average short line mileage from the twelve Wisconsin points to East St. Louis is 385 miles which is an average increase of 38.4 per cent over the short line mileage from Chicago to East St. Louis. In Exhibit No. A-166 it is shown that rate of $1.55 per 100 pound- applies from Milwaukee, Wisconsin to Dallas, Texas. This is not a fact because the tariff does not provide for any rate from Milwaukee, the third class rate of $1.58 applying from Milwaukee. The tariff, how-
[fol. 1278] ever, from Wisconsin shipping points in the Chicago group is subject to Rule 77 of Interstate Commerce Commission tariff Circular No. 18-A, Milwaukee being intermediate to Wisconsin points taking the Chicago rates and if a request was made for the establishment of a commodity rate from Milwaukee it could not exceed the Chicago group subject to the Chicago rate of $1.37 per 100 pound- (Tr. 5693-5694).

I now offer exhibit A-246 (Tr. 5695).

(The statement described by the witness was thereupon received in evidence as Exhibit A-246.)

[fol. 1279] I now desire to offer exhibit A-247. In Exhibit A-226 of Witness Trovillion are shown through rates and divisions via East St. Louis and Kansas City, Missouri, on cotton seed meal, carloads, from certain Oklahoma points to points in Illinois, Iowa and Wisconsin. In Exhibit A-226 are shown the percentage that the present divisions north and south of East St. Louis and north and south of Kansas City, Missouri are of the local or proportional rates. The rates shown on pages 1, 3 and 4 north of East St. Louis or Kansas City, Missouri, with the exception of the rates to Peoria, Illinois, and Milwaukee, Wisconsin, are in all cases proportional rates. In Exhibit No. A-247 have shown the local rates from East St. Louis and Kansas City, Missouri, to destinations named on pages 1, 3 and 4 of Ex-

hibit A-226; where such local rates are different than the proportional rates and have shown also in this exhibit the percentage that the division in cents per 100 pounds north of East St. Louis or Kansas City, Missouri, is of the local rates north of those gateways, which will materially reduce the percentages shown in Exhibit A-226 as representing the percentage that the divisions north of East St. Louis or Kansas City are of the local rates (Tr. 5695-5696).

Pages 2 and 3 of Exhibit No. A-247 is a copy of a letter addressed to Chairman Boyd of the Western Trunk Line by Mr. D. R. Lincoln, Assistant Freight Traffic Manager of the Missouri Pacific Railroad under date of December 15, 1921. This letter outlines the basis of divisions as set forth in Southwestern Lines Division Sheet No. 31 referred to in Exhibit No. A-226. In this letter reference is made to fourth page of an exhibit "a", but this exhibit was not available. An illustration of the method used and as detailed in that exhibit is as follows: "Exhibit No. A-226 shows that the distance from Muskogee, Oklahoma to Kansas City, Missouri is 254 miles and the lowest rate as of [fol. 1280] June 25, 1918 for the block 250 to 300 miles was 30 cents and the highest rate 20½ cents and the average of the highest and lowest rates, 20¼ cents. "Exhibit No. A-226 shows that the distance from Kansas City, Missouri to Ladora, Iowa is 309 miles and the lowest rate for the block 300 to 400 miles as of June 25, 1918 was 21½ and the highest rate 23 cents and the average of the two rates 22¼ cents. Applying a rate prorate basis using the 20¼ cents and 22¼ cents factors would produce a percentage north of Kansas City of 52 per cent, which is the basis of divisions that would apply east of Kansas City on cotton seed meal moving from Muskogee, Oklahoma to Ladora, Iowa (Tr. 5696-5697).

This basis was approved by the Western Trunk Line Committee and Agent Leland's Division Sheet No. 31 was published effective July 1, 1922 on this basis. Subseqently the Southwestern Lines found that this basis allowed lines east of Kansas City more than their proportional rates and submitted a proposition to the Western Trunk Lines to accept proportional rates as a maximum which was approved by the Western Trunk Lines and published effective

July 1, 1922 in Supplement No. 1 to Southwestern Lines Division Sheet No. 31. The actual application of the Division Sheet on traffic to points in Western Trunk Line territory would have allowed considerable greater revenue than the proportional rates as for example on traffic to Ladora, Iowa 52 per cent of the rate of 36 cents through rate would allow east of Kansas City 18.7 cents but this exceeding the proportional rate of 14 cents, east of Kansas City such proportional rate becomes the division for the lines east of Kansas City.

I now offer exhibit A-247 (Tr. 5697).

(The statement described by the witness was thereupon received in evidence as Exhibit A-247.)

[fol. 1281] The next exhibit is No. A-248 which I will introduce. Exhibit No. A-248 consists of four pages, and shows rates and divisions on fresh meats and packing house products, C. L. from Fort Worth, Texas and Oklahoma City, Oklahoma to New York, New York and Chicago, Illinois. The rates shown in this exhibit to Chicago, Illinois and New York, New York, are the same as shown in Exhibit No. A-223 of Witness Trovillion. In paragraph "A" of item No. 1 is shown through rates from Fort Worth and Oklahoma City to New York. In paragraph "B" of the same item, is shown the rates from Fort Worth and Oklahoma City to Mississippi River, also from Mississippi River to New York, and the sums of the rates in paragraph "B" of item No. 1 are equal to the through rates, indicating that the published through rates are the sum of intermediate rates applying to and from Mississippi River. In item No. 2 is shown divisions of the through rates to New York as taken from Exhibit No. A-223. In paragraph "E" of item No. 3 it is shown that the lines west of Kansas City receive the same revenue out of rate to Mississippi River as they receive out of the through rate to New York, as shown in item No. 2; divisions in the latter item having been taken from Exhibit No. — 223, and as previously stated, paragraph "B" of item No. 1, shows rates are the combination on Mississippi River (Tr. 5698).

In Exhibit No. A-223 it is shown that on packing house products from Fort Worth to Kansas City, lines west of

Kansas City receive 40 cents per 100 pounds. This is in error, however, because Southwestern Lines Division Sheet No. 40 restricts lines west of Kansas City to local rates as maximum, and as the local rate from Fort Worth to Kansas City on packing house products is 32.5 cents the correct division for lines west of Kansas City is local rate of 32.5 cents. Exhibit No. A-223 and testimony of Mr. Trovillion was to the point that lines east of Kansas City to Chicago [fol. 1282] receive more revenue out of the through rates to New York than out of the through rates to Chicago, Illinois. As has been shown, the through rates to New York are based on Mississippi River, and total proportions for lines from Kansas City to Chicago represents revenue received by lines east of Kansas City to Mississippi River out of joint rates applicable in connection with Southwestern Lines to Mississippi River, and revenue received by the lines from Mississippi River to Chicago out of joint rates from Mississippi River to New York applicable in connection with Eastern Lines. This is shown in item No. 3 under Paragraphs "E" and "F" of Exhibit No. A-248. On traffic moving to New York via Kansas City thence to East St. Louis thence to Chicago for movement via Eastern Lines to New York, the short line distance from Kansas City to East St. Louis is 278 miles and the short line distance from East St. Louis to Chicago is 279 miles (Tr. 5699-5700).

The lines east of Kansas City to Mississippi River receive 10.8 cents on fresh meats and 17.5 cents on packing house products out of rates from Fort Worth to Mississippi River as compared with 21.4 cents on fresh meats and 14.8 cents on packing house products allowed lines from Mississippi River to Chicago out of the joint through rate from Mississippi River to New York. The lines east of Kansas City to Mississippi River receive 13.2 cents on fresh meats and 12.9 cents on packing house products out of rates from Oklahoma City to Mississippi River as compared with 21.4 cents on fresh meats and 14.8 cents on packing house products allowed them from Mississippi River to Chicago out of joint through rate from Mississippi River to New York. The service from Mississippi River to Chicago is the same or less than from Kansas City to East St. Louis, yet, out of the joint through rate to Mississsippi River lines

east of Kansas City receive considerable less revenue than [fol. 1283] out of the joint through rate from Mississippi River to New York. The 13.2 cents and 12.9 cents division factors out of Oklahoma City-Mississippi River rates, includes the 14 per cent increase allowed lines east of Kansas City effective July 1, 1925, but such 14 per cent increase was not allowed east of Kansas City on traffic originating with the M. K. & T. Railway (Tr. 5700-5701).

The allowance east of Kansas City to Mississippi River on traffic originated with M. K. & T. Railway is, on fresh meats 11.6 cents per hundred pounds and 11.3 cents per hundred pounds on packing house products. On page 3 of Exhibit No. A-248 is shown revenue accruing west of Kansas City, and from Kanass City to Chicago, out of rates on fresh meats and packing house products from Fort Worth and Oklahoma City to New York and Chicago; and the percentage that such revenue is of the local rates from Fort Worth and Oklahoma City to Kanass City, and from Kansas City to Chicago. In eight instances, the lines west of Kansas City are receiving their full local rates, or in excess of their full local rates. The highest percentage that the revenue east of Kansas City is of the local rates east of Kansas is 96.1 per cent which occurs in the case of fresh meats from Oklahoma City to New York when traffic moves from Oklahoma City to Kansas City via C. R. I. & P. or A. T. & S. F. Railway. When traffic moves to Kansas City via M. K. & T. Railway percentage is 91.7 per cent (Tr. 5701).

In other instances, the lines east of Kansas City receive as low as 50.3 per cent of the local rates, and the lowest percentage that revenue west of Kansas City is of local rate, occurs in the case of fresh meats from Oklahoma City to New York, in which instance the revenue west of Kansas City is 75.4 per cent of the local rate. The lines west of Kansas City receive in one instance 147.7 per cent of local rate to Kansas City, and in all cases on traffic from Fort [fol. 1284] Worth destined to Chicago the lines west of Kansas City are receiving their full local rates, and on traffic from Oklahoma City destined to Chicago in all cases, lines west of Kanass City are receiving greatly in excess of their local rate, the revenue west of Kansas City ranging from 102.2 per cent of local rate to 147.7 per cent of

local rate. Local rates to and from Kansas City are shown on last page of Exhibit No. A-248.

I now offer exhibit A-248 (Tr. 5701-5702).

(The statement described by the witness was thereupon received in evidence as Exhibit A-248).

[fol. 1285] On Page 114 of Exhibit No. A-199 of Witness Stanage a comparison is made of the earnings received by the lines north of East St. Louis and Kansas City out of through rates to Oklahoma destinations with proportional rates applicable from Mississippi River Crossings and Cairo, Illinois on traffic originating beyond and destined to points in Western Trunk Line territory. The earnings received by the use of Western Trunk Line proportional rates from Mississippi River crossings East St. Louis and north are only a portion of the earnings received on the through traffic originating beyond. As an illustration of this, from the Mississippi River to Des Moines on page 114 of Exhibit No. A-199 a proportional scale of 48½ cents first class to 9 cents Class "E" is shown, but this scale of rates is only applicable on traffic originating east of the Illinois-Indiana State Line and the lines east of the Mississippi River are further compensated for their acceptance of this low scale of proportional rates on this traffic by the earnings that they receive from Chicago to the Mississippi River out of a rate from origin points east of the Illinois-Indiana State Line to the Mississippi River whereas out of the through rates from Western Trunk Line points to points in Oklahoma as shown on page 114 of Exhibit No. A-199 the earnings north of East St. Louis and Kansas City represent the net earnings north of East St. Louis or Kansas City, the Western Trunk Lines receiving no further compensation (Tr. 5702-5703).

To illustrate this more clearly, on a shipment from Pittsburgh, Pennsylvania to Des Moines subject to first class rate in the Official Classification and first class rate in the Western Classification the through rate would be $1.71 made up of a rate of $1.22½ from Pittsburgh, Pennsyl-
[fol. 1286] vania, to the Mississippi River and 48½ cents from the Mississippi River to Des Moines, Iowa. Out of through rate of $1.71 the lines west of Chicago and further compensation for the Western Trunk Lines east of the Mis-

sissippi River in addition to the factor of 48½ cents as referred to in Exhibit No. A-199 being 43 cents. As to the comparisons between the earnings of Western Trunk Lines east of Kansas City or St. Louis out of through rates to Oklahoma points and the earnings out of the proportional rates from Omaha and Des Moines to Cairo no consideration was apparently given to the measure of the rates, for illustration, on page 114 of Exhibit No. A-199 is shown a scale of through rates from Chicago to Oklahoma City 227.5 first class to 56.5 Class "E" and revenue Chicago to Kansas City, short line distance 452 miles, is shown as 72.8 first class to 18.1 Class "E". On the same page of Exhibit No. A-199 is shown proportional scale of class rates from Omaha to Cairo destined Southwestern territory 118.5 first class to 24.5 class "E" and the revenue from Omaha to East St. Louis, short line distance 417 miles, is shown as 81.5 first class to 15.7 class "E". From this it will be noted that the proportional class rates from Omaha to East St. Louis are considerably lower than the through rates from Chicago to Oklahoma City (Tr. 5703-5704).

E. J. Schmitt was thereupon recalled as a witness and testified as follows:

Direct examination:

The record is clear that through rates on lumber from the Southwest to Western Trunk Line territory were based, generally speaking, on full combination of rates applying to and from Thebes, Illinois. The record is also clear that the through rates or combination rates in effect prior to [fol. 1287] the rate changes via Thebes, Illinois, as made, that is, local rates north and south of that point. The divisional basis in effect prior to the rate changes applicable via East St. Louis has also been placed into the record, and it is clearly shown that from the Southwest Lumber Blanket Territory, territory south of the Arkansas River, the lines south or west of Thebes, Illinois, or East St. Louis, received full local rates (Tr. 5705).

From the territory north of the blanket, generally speaking, prior to the rate changes, the Southwest Lines also

received full local rates to Thebes or East St. Louis. Some exceptions were noted, however, to the local rate basis as the measure of the divisions to the Southwest Lines on traffic to the territory west of the Mississippi River, under the Commission's decision in I. & S. Docket No. 299. The mileages shown in Exhibit No. A-183 for the Southwest Lines is shown as 697 miles, but exhibit A-184 shows 679 miles. At Davenport, Iowa, distance percents for lines North show 15 per cent, whereas, mileage basis using 697 miles results in 25.6 per cent and if 679 miles is the proper average south the percentage is 26.2 per cent. Mileage is shown as 330 miles at Des Moines, 331 at Marshalltown and 540 at St. Paul, whereas, average short line mileage as shown in Exhibit A-77 is 343 at Des Moines, 356 at Marshalltown and 568 miles at St. Paul. In Exhibit A-184, 291 miles is shown opposite Freeport, 413 at Fond du Lac and 535 at Marshfield, whereas, Exhibit A-77 provides for mileage of 304 at Freeport, 426 at Fond du Lac and 548 at Marshfield. The distance percents due to this would be somewhat higher to the lines north at those points.

In Exhibit A-183, introduced by Mr. A. J. Lehmann, is shown the divisions received by the Southwest and Western [fol. 1288] Trunk Lines from the Southwest Blanket to Hannibal, Missouri, Davenport, Iowa, Dubuque, Iowa, Cedar Rapids, Iowa, Des Moines, Iowa, and other points west of the Mississippi River (Tr. 5706-5707).

On pages 5389 and 5390 of the transcript Witness Lehmann stated: "The first committee sheet was issued to become effective May 1, 1917, and was known as Southwestern Lines' Division Sheet No. 27 W. T. L. Division Sheet No. 520-A. So that it may be fairly said at this time that the divisions currently in effect on lumber from the southwest to destinations in Western Trunk Line territory have already been fixed by the Interstate Commerce Commission." Page No. 1 of my exhibit No. A-249 shows the divisions in cents per 100 pounds to and from East St. Louis, which Mr. Lehmann states were fixed by the Commission. This page also indicates the present rates and the present divisions via East St. Louis, and shows that the Western Trunk Lines, on traffic from the Southwest Blanket Territory to points west of the Mississippi River, are now receiving the same measure of increase in the proportions which

Mr. Lehmann states were fixed by the Commssion as has been made in the through rates under the general increases, and the reduction as of July 1, 1922 (Tr. 5707).

To points east of the Mississippi River, however, the situation is entirely different. Page No. 2 of my exhibit shows that to Chicago, for example, the lines south of Thebes, Illinois, have received from the Blanket Territory the same measure of increase in their divisions as was made in the through rate, that is, 43.6 per cent, that the line from Thebes to East St. Louis received an increase of 70 per cent but the line from East St. Louis to Chicago received only 34.1 per cent increase in its proportions. Page No. 2 will indicate, as Mr. Lehmann stated, that the [fol. 1289] lines south of Thebes, Illinois, received 16 cents, as of June 24, 1918, plus 3 cents from Thebes to East St. Louis, or a total of 19 cents, which was the full local rate to East Et. Louis, and this is illustrated by Mr. Lehmann in exhibit No. 184. There can be no question, therefore, that the correct division to East St. Louis, Illinois, on June 24, 1918, was 19 cents—the allowance to the line from Thebes to East St. Louis was 3 cents. There can be no doubt whatever, in my opinion, that the division of 19 cents south was the division from the Southwest Blanket, regardless of the fact that Mr. Lehmann, in his testimony, indicates that 20 cents should have been the measure of the Southwest Lines' proportion as of June 24, 1918, due to the desire of the Southwest Lines to prorate the Thebes-destination rate, compound their earnings and require in excess of locals (Tr. 5707-5708).

I do not understand how lines handling traffic across the river at St. Louis could consistently claim a proportion of the Thebes rates, for the reason that they do not handle the traffic via Thebes, so, under the theory advanced, the West Side Lines—M. K. T., C. R. I. & P., Frisco and Missouri Pacific, west,—would have received 19 cents and no claim to a division greater than the local to East St. Louis—19 cents—whereas, the Missouri Pacific, east, and St. L. S. W. would receive under the theory advanced by Witness Lehmann 20 cents. There is absolutely no justification, in my opinion for a division as of June 24, 1918, in excess of full local rate to East St. Louis, Illinois. Exhibit A-184 shows that the present division to Chicago from East

St. Louis, on traffic from the Southwest Blanket, is 11.4 cents per 100 pounds; that the division as of March 1, 1920, was 8.8 cents, and the June 24, 1918, division 8.5 cents. Page No. 3 of my exhibit shows the June 24, 1918, divisions East St. Louis to Chicago Group and the current [fol. 1290] divisions compared with the local rates north and south of East St. Louis as of June 24, 1918, and at present. This page shows that the through rate from Southwest Blanket, in effect to Chicago, on June 24, 1918, was 27.5 cents and on March 1, 1920, 32.5 cents,—an increase of 5 cents or 18.2 per cent. The March 1, 1920, division of 8.8 cents via East St. Louis was an increase to the lines north of East St. Louis of only 3.5 per cent versus an increase in the rate of 18.2 per cent, and an increase to the Southwest Lines of 24.7 per cent. (Tr. 5708-5709).

The current rate is 39.5 cents from the Southwest Blanket to Chicago; the June 24, 1918, rate 27.5 cents, an increase of 12 cents or 43.6 per cent. The June 24, 1918, division south was 19 cents—the local rate, and the division north 8.5 cents—one cent less than the local. The current division to Chicago of 11.4 cents, is 4.1 cents less than local of 15.5 cents, whereas, Southwest Lines' division of 28.1 cents, is only 1.4 cents less than the local rate. The local rate west of East St. Louis, of course, reflects an increase of 25 per cent, 35 per cent and a reduction of 10 per cent, whereas the local rate east to Chicago was increased 25 per cent, 40 per cent and reduced 10 per cent. On same basis of comparison, that is, 25 per cent increase under General Order 28, 35 per cent under Ex Parte 74, and 10 per cent reduction, under the existing divisions the lines north would receive, East St. Louis to Chicago, 3.1 cents less than the local rate—as compared with June 24, 1918—basis of only 1 cent less than local, and current basis for Southwest Lines of only 1.4 cents less than local to East St. Louis, Illinois. On June 24, 1918, the Southwestern Lines received full local rate and Illinois Lines received 89.5 per cent. Under the divisional basis now operative, however, the Southwest Lines are receiving 95.2 per cent of their local [fol. 1291] and the lines north only 74.3 per cent, which clearly indicates that the Northern Lines were again forced to accept revenue less than that to which they were entitled (Tr. 5710).

Page No. 3 of my exhibit also shows that on June 24, 1918, via Thebes, the Northern Lines and Southwestern Lines received their full local rates, and at present the lines north of Thebes are receiving 89 per cent of the local and Southwestern Lines 93.8 per cent of the local rates. I have previously stated, and as indicated on page No. 1 of my exhibit, that Western Trunk Lines have received from the Southwest Blanket, via East St. Louis, to points on the west of the Mississippi River, the same measure if increase as was made in the through rates. It is peculiar, indeed, that the Southwest Lines refused positively to accord to the East St. Louis-Chicago line the same treatment. If it were proper to accord to points west of the Mississippi River the same measure of increase as was made in the through rate, there is no reason at all, as I see it, why the Illinois lines, to Chicago and other Illinois points, should not have received the same treatment, and it is peculiar too, that, to Fond du Lac, Marshfield, Rhinelander, etc., the lines north of East St. Louis receive the same measure of increase as was made in the through rate, but to Illinois we had to be contented, with an increase over June 24, 1918, of only 34 per cent versus a 43.6 per cent increase in the rate.

By Mr. Muckley:

Q. Do you know if your counsel agrees with all the theories and conclusions which you are putting in the record? (Tr. 5711.)

A. I could not say.

Exhibit A-184 indicates percents based on mileage. The mileages shown are improper, as stated, as an average is used south and short single line mileages are used [fol. 1292] north, but even so, allowing the S. W. L. their full locals via East St. Louis to the destinations shown as of June 24, 1918, leaves a balance to the Northern lines greater than a mileage prorate percentage, as follows:

	Per cent of through rate north as of June 24, 1918, allowing full local south	Mileage basis as indicated by Witness Lehmann
Chicago	30.8 per cent	29.1 per cent
Freeport	30.8 per cent	39 per cent
Peoria	28.3 per cent	18.8 per cent
Springfield	28.3 per cent	12.2 per cent
Fond du Lac	44 per cent	37.8 per cent
Marshfield	44 per cent	44.1 per cent
Rhinelander	49 per cent	46.1 per cent

Page 4 of my exhibit shows the per cents accruing to the lines north of East St. Louis on basis prescribed by the Commission to points west of the River, versus mileage basis of per cents as shown in Exhibit A-183. And this page also shows that on basis of allowing lines south full local rate to East St. Louis as of June 24, 1918, instead of basis prescribed by the Commission, the lines north of East St. Louis receive in excess of revenue based on mileage (Tr. 5712).

To further indicate the result of the 1924 agreement, about which I testified in the former hearing at Chicago, I respectfully direct attention to pages Nos. 5, 6 and 7. Page No. 5 shows that the lines north and south of Thebes received the same measure of increase from the Blanket Territory as was made in the through rates to Chicago, but that from the territory north of the Blanket the lines north have not received the same measure of increase as was made in the rate. For illustration, from the 13 cent territory—territory north of the Arkansas River—the through rate [fol. 1293] has been increased 46.9 per cent, but lines north received an increase of only 43.5 per cent. Block "B" shows that the lines south have received an increase of 50 per cent although through rate was increased only 46.9 per cent. Page No. 6 shows the situation via East St. Louis. From the 13 cent territory the lines to Chicago are receiving an increase over June 24, 1918, of only 35.3 per cent versus an increase in the rates of 46.9 per cent, and from other points in lower rated groups the Southwest Lines are receiving full local rates which reflect 35 per cent under General Order 28, 35 per cent under Ex Parte 74, and the 10 per

cent reduction, regardless of the fact that the through rates were increaesd only 18 per cent under General Order 28 (Tr. 5713).

This situation is existent from all points north of the Blanket Territory. Lines to Chicago, as representative, have received an increase of only 2.9 cents from the entire Southwest out of rate increases ranging from 10 to 12 cents per 100 pounds. This amount of increase does not pay the increased switching absorptions at Chicago and East St. Louis. Page No. 7 shows that the same situation prevails at points other than Chicago. Where rates have been increased 51 per cent at Peoria, the increase from this lower rated territory to the lines north of East St. Louis is only 46 per cent. At Springfield rate increase from Jonesboro was 51 per cent, increase north 40 per cent, etc. Page 8 shows local rates on lumber to Thebes and East St. Louis, Illinois, from origin groups in the Southwest and the current local rates from Thebes and East St. Louis to destinations shown in Exhibit- A-183 and A-184. Pages Nos. 9 and 9-A of my exhibit No. A-249 show a comparison of the present divisional situation on lumber from the Southwest. From Cape Girardeau, Missouri, to Chicago, for illustra- [fol. 1294] tion, lines north of East St. Louis, Illinois receive 54.3 per cent of the rate and perform 67.4 per cent of the haul. Southwest lines receive 45.7 per cent of the rate and perform 32.6 per cent of the service. Southwest Lines receive 80 per cent of the local rate; Northern Lines 73.5 per cent. At Kennett, Missouri, Southwest Lines receive 59.7 per cent of the revenue and perform 44.3 per cent of the haul, and receive full local rate whereas lines north receive 80.6 per cent of the local (Tr. 5713-5714-5715).

At Paragould, Arkansas, lines south receive full local; lines north 77 per cent of local, and at Batesville lines south receive full local, lines north, to Chicago, 73.5 per cent of local. From McNeil, Arkansas and the Southwest Blanket, to Chicago, lines south receive 95.2 per cent of the local rate to East St. Louis, lines north 73.5 per cent.

Attorney Larimore here objected to this character of testimony, but no ruling was made by the Examiner.

This page of the exhibit shows clearly in my opinion that the lines north are not receiving proper revenue. Page No.

10 of my exhibit contains an illustration of sincere generosity, and is, as I understood Witness Sickel to state, a scientific manner in which to arrive at divisions. Mr. Sickel suggested a percentage basis on Arkansas and Louisiana traffic. He suggested 21.5 per cent north of East St. Louis, for illustration, on Little Rock and 23.6 per cent on Louisiana, and that such percentages be made applicable on all traffic. On lumber his proposal is that lines from East St. Louis to Chicago receive 21.5 per cent or 7.7 cents per 100 pounds, or 49.7 per cent of the local rate (Tr. 5715).

For Southwestern Lines' service he suggests 110 per cent of the local rate. On a 50,000 pound car this would pay the lines north of East St. Louis $38.50 per car, resulting, on a [fol. 1295] car to Chicago—less switching—is the lines north receiving $15.25 for hauling a car of lumber 279 miles—Southwest Lines receiving $155.65 for a haul of 351 miles. This is merely an illustration of the suggestions made to the Illinois lines regularly, indicating, without question, in my opinion the liberality of the Southwest Lines. He suggests revenue to the Southwest Lines be based on allowing them four times as much as Illinois lines receive—this for a haul 72 miles in excess of the haul of the Illinois lines. On Louisiana lumber Mr. Sickel generously suggested 23.6 per cent, or $23.25 per car net East St. Louis to Chicago, versus $151.00 south, or revenue about six times greater for a haul of only 200 miles more than the haul from East St. Louis to Chicago. It is suggested that lines north of East St. Louis receive 60 per cent of the local rate to Chicago—Southwest lines receiving under the proposed basis 109 per cent of the local rate to East St. Louis. This page clearly indicates that no consideration whatever should be given to the suggested basis for divisions on Arkansas and Louisiana (Tr. 5716).

Here followed a discussion as to the propriety of this testimony. During the course of the discussion Attorney Towner said that he was willing to be bound by these conclusions of the witness (Tr. 5716-5717).

The Witness: In exhibit 183 the mileage shown for the Southwest Lines from the Southwest Blanket is 679 miles. Page No. 11 of my exhibit shows weighted haul on lumber from the Southwest Blanket—Arkansas eliminated—and on

the same exhibit are figures showing average haul with Arkansas included. These figures were taken from Exhibits A-116 to 122, inclusive. The exhibit will indicate a weighted haul from the Southwest Blanket, including Arkansas, of 526.2 miles and, excluding Arkansas, 649 miles. All of [fol. 1296] Arkansas should not be included in the Blanket Territory, but the weighted average mileage from the whole territory would be less than 648.9 miles, if traffic from that part of Arkansas in the Blankets was included (Tr. 5717).

Page No. 12 of my exhibit is based upon Exhibit A-116 of Witness Bone. This exhibit showed there moved from Missouri points to Illinois a total of 260 cars of lumber and that 76 cars were destined to points taking a division of 11.4 cents per 100 pounds from East St. Louis, which includes Chicago; 38 cars destined points taking a division of 12.5 cents; 14 cars to Peoria and Peoria rate ›t divisional group; and 84 cars to miscellaneous desti.. ›s. On the cars destined Chicago and Chicago divisional group points, the average haul of the Western Trunk Lines was 316 miles; average haul of Southwest Lines 169 miles.

This exhibit will indicate that Western Trunk Lines' revenue averaged $63.00 per car for haul of 316 miles, and Southwest Lines' revenue per car averaged $84.00 for haul of 169 miles.

Attorney Towner here stated that another exhibit would show that the absorption of switching was the average.

The Witness (continuing): So far as our line is concerned and 90 per cent on the C. & E. I. is the point at which we have to make these absorptions. I cannot say whether there is any competition involved (Tr. 5718).

I don't believe that our absorption was occasioned by competition with the Burlington at Chicago. The Burlington is a very circuitous route. There are many lumber interests on the Burlington but the fact remains that this traffic is routed our way and moves our way and I cannot see whether it would be any element of competition at all. I would not say that the absorptions at Chicago are not occasioned by any competitive conditions. These are the facts, [fol. 1297] these are the actual absorptions. I could not say whether the situation at Chicago is the result of a condition

90 per cent competitive. The switching absorptions at Chicago are reciprocal among all lines.

If the Chicago switching absorption expense is taken into consideration, and that, in my opinion, cannot be overlooked, which will average about $17.00 per car, and the switching charge of $4.95 per car at East St. Louis, the average per car revenue north of East St. Louis is $41.00 per car for a haul of 316 miles, versus $84.00 per car south for a haul of 169 miles (Tr. 5719).

The other figures, all of which were taken from Exhibit A-116, show a similar situation. A study of that exhibit will indicate that where Western Trunk Lines' haul exceeds that of the Southwest Lines, the revenue per ton mile is materially less than that of Southwest Lines, but where the Southwest Lines' haul is greater than that of the Western Trunk Lines, their revenue is also materially greater, as is shown in the same exhibit from Arkansas to Illinois, and this, in my opinion, indicates clearly that the present divisions are unfair to the Western Trunk Lines. On the 361 cars to Chicago and group points, from Arkansas, the average revenue per car for 306 mile haul was $60.00 per car; Southwest Lines' revenue for 415 mile haul averaged $131.00 per car. Taking into consideration the switching charge at Chicago and East St. Louis, the revenue north of East St. Louis is reduced $21.95 per car, to $38.72 per car, East St. Louis to Chicago versus $131.00 per car averaged for Southwest Lines for 415 mile haul. Surely some consideration must be given to the line having the short haul, included in which are heavy absorptions (Tr. 5720).

Page No. 13 is interesting, in my opinion. The origin [fol. 1298] points were picked at random from items appearing in exhibits filed by Witness Balch. In practically each instance, from Missouri, via East St. Louis, it will be noted that present revenue to the lines west is equal to full local rate to East St. Louis, whereas the revenue to the lines East, under existing divisions, will average about $22.00 per car less than local rate and $17.00 per car less than local had local rate from East St. Louis to Chicago been increased to the same extent that Southwest Lines' rate had been increased under Ex Parte 74, that is, 35 per cent. Via Thebes, from Missouri, in each instance—with one exception—Southwest Lines are receiving full local

rates, whereas Western Trunk Lines' revenue is materially less than the local rate. Via East St. Louis, from Arkansas, Page 13 shows that lines west are receiving full local rate from points as far distance as 298 miles from East St. Louis, and less than locals from points in the Blanket territory, but not nearly as much less as the East St. Louis-Chicago lines accept less than their local. Via Thebes, from Arkansas, in four out of six representative illustrations, lines south of Thebes receive full locals, whereas in no instances do the lines north receive their local when on June 24, 1918 lines north received our full local rate (Tr. 5720-5721).

As to Texas: Average revenue per car to Southwest Lines, under present arrangement, is $151.42 or $7.55 per car less than full local rate. On June 24, 1918, Southwest Lines received full local and Eastern Lines 1 cent less. We now receive 4.1 cents less than local rate or 3.1 cents less if our local had been increased the same measure, that is, 35 per cent instead of 40 per cent under Ex Parte 74. Practically the same situation exists at Louisiana points and this page, in my opinion, indicates clearly how unfair the divisions are to the East St. Louis-Chicago Lines. The [fol. 1299] average revenue from Missouri, via East St. Louis, to Chicago, based on present divisions, is: Lines west $89.83 per car, lines east $66.56. Deducting switching of approximately $21.00 per car results in about $45.00 for service of 280 miles and, in my opinion, as I have stated before, the lumber divisions are not at all on a fair basis to the W. T. L. or Illinois Lines.

In my opinion, divisions must be based on the origin and destination of the traffic. Divisions to Trunk Line Territory are so based, and there is no reason why divisions to Illinois, C. F. A. and W. T. L. territories should not be based accordingly. There must be taken into consideration the fact that when rates are based on full local rates to and from the base points and the traffic moves through the base point, the measure of the division via the base point should have been the local rate used in constructing the through rate (Tr. 5721-5722).

If the through rates are increased—the local rate either west or east losing its identity by such increases in the

through rate—the only fair basis is to determine percentage based on the local rate factors from each origin to each destination point and apply such per cents to the through rate. This basis will insure to each set of lines a proper and fair basis for distribution of revenue as the rates change. The combination feature is never lost sight of and each set of lines receives revenue based on the local rates, which combination of rates prior to the rate changes made the through charge paid by the shipper. I believe that, in the case of lumber, where the local rates east and west of the base point used in constructing the through rate have been found reasonable per se by the Interstate Commerce Commission, such factors should be used as a basis for divisions of the through rate.

As to traffic moving through a base point and handled [fol. 1300] from the base point by the same line and interchange made at a point beyond the base point: It is, I think, unfair for the line handling such traffic to a connection at an interchange point beyond the base point to receive its full local rate to the base point, plus the same revenue that would accrue from the base point proper for service to the interchange point. That basis results in compounding of earnings, and, as stated, is not fair (Tr. 5722-5723).

In the case of lumber, lines handling through traffic through Thebes, the base point, and East St. Louis, the interchange point, should not have received, on June 24, 1918, in my opinion, 16 cents to Thebes and 19 cents—the full local rate—to East St. Louis. They should have been contented with the full local to the base point, Thebes, plus a reasonable division beyond the base point, the reasonable division being determined on facts. By that I mean, as 16 cents to Thebes was the local rate and 19 cents the local to East St. Louis. The Southwest Lines performed service—Thebes to East St. Louis proper—for three cents per 100 pounds—the difference in the rate—and out of that 3 cents, literally speaking, they absorbed, on traffic to East St. Louis proper or to St. Louis, Missouri, certain terminal charges. On through traffic no such absorptions are made, and the point I would like to make is that the measure of the division from Thebes to East St. Louis should have been based accordingly. The full local rate south of East

St. Louis should not have been the measure of the revenue south of the interchange point. Too, in my opinion, should be taken into consideration compensation features as to revenue for the line performing the short haul, included in which are heavy absorptions, and, in the case of Southwestern traffic which does not cross the river at East St. Louis—in addition to the absorption at Chicago—is the [fol. 1301] fact that we pay the intermediate switching charge on traffic delivered to us at East St. Louis, different from the situation at other points where the delivering line pays such charges (Tr. 5723-5724).

I now offer Exhibit A-249.

(The statement described by the witness was thereupon received in evidence as Exhibit A-249.)

[fol. 1302] Cross-examination:

I do not say that on lumber, for example, to Chicago through the Thebes gateway, that the Southwestern Lines should get the St. Louis revenue. I said in my opinion that the factor to East St. Louis should not have been the full local rate to Thebes plus three cents division which resulted in the full local up to East St. Louis. I said on traffic going through Thebes to East St. Louis in my opinion the 19 cents should not have been the measure of the division south of East St. Louis. 16 cents to Thebes was the local rate and 19 cents the local to East St. Louis. The Southwestern Lines, as I have stated, performed its service Thebes to East St. Louis proper for 3 cents per 100 pounds, the difference in the rate and out of that 3 cents they absorb on traffic to East St. Louis proper or to St. Louis, Missouri certain terminal charges (Tr. 5725-5726).

As I have stated on through traffic such absorptions are not made and it is my contention that the measure of the division from Thebes to East St. Louis should have been based accordingly and the full local south of East St. Louis should not have been the measure of the revenue south of the interchange point. I don't think the situtaion as to traffic from Chicago delivered to the Southwestern Lines at Thebes is similar at all.

Referring to the top of page 12, the first line on Exhibit A-249, where the revenue per ton mile in mills in the last two columns on the top of the page shows Southwestern Lines 18.45 and Western Trunk Lines 7.40, I don't believe that situation has been brought about almost entirely by the percentage increases in the two locals. I think it was brought about by the fact that we have not received a proper division north of East St. Louis. I presume the western proportion greater than the east, the local short [fol. 1303] hauls. It is possible that the fact that the increase was applied to each local to meet the situation may have some bearing, but I don't believe it would affect the general situation. Possibly that would result in greater earnings per ton per mile west than east. I could not say without any figures to prove it (Tr. 5726-5727).

Continuing direct examination:

I now desire to offer my exhibit No. A-250. Witness Stanage, on page 5442 of the transcript, stated:

"The present divisions are not the result of arbitrary carrier action. They are the result of the processes of natural growth. A great many influences brought about the present bases." There is nothing in his testimony, nor in the record, to enable one to determine what influences brought about the present bases for divisions. Whatever may have been the reasons for the establishment of the present divisions, the fact remains, in my opinion, that the divisions north of Thebes, or East St. Louis, or Kansas City, on Missouri traffic, do not reflect proper or sufficient revenue to the lines operating north of those gateways. Witness Stanage also stated: "It is not proper to divide existing joint rates on mileage prorates for a great many reasons, principal among which is the fact that the rates in the Southwest are on a substantially higher level than those in Western Trunk Line territory. Divisions are generally based on the respective rate levels the territories" (Tr. 5727-5728).

I will refer later to certain pages of my exhibit which will clearly indicate that the present divisions accord the lines north of the gateways with Southwest Lines materially less than mileage or a rate prorate,—the latter, gen-

erally speaking, reflecting the *the* different level of rates in the different territories. My experience in attend-[fol. 1304] ing divisional conferences in connection with lines handling inter-territorial traffic has indicated to me that the principal idea of the lines having the whip hand, by that I mean the strong lines, is to force through whatever basis, from a revenue standpoint, appeals to them,—whether or not that basis is fair to their connections. Due, in the past, to lack of unison on the part of the Illinois lines—and possibly the Western Trunk Lines—the Southwestern Lines, standing together at all times regardless of the merit of the suggested divisions, have been able, in my opinion, to always secure that which they wanted,—in excess of that to which they were really entitled—and always at the expense of the Northern Lines. I am not talking about lumber. This is Exhibit A-215. I am testifying as to Exhibit A-250. The statement could be taken as applying to lumber if you want it (Tr. 5728-5729).

Witness Stanage stated that the through rates were not based on mileage and that a mileage prorate has never been observed in basing any of these divisions, and, further, that the through rates were constructed by taking into consideration the proportions to be allowed the Southwestern Lines. If the latter be a fact, as will be indicated later, in my testimony, the lines north must not have given any thought whatsoever to their revenue, and again this is explained, as I see it, by the Southwestern Lines playing one line against the other,—the result, in the end, being that the revenue north, on practically all classes of traffic, to and from this particular territory, is far too low. Witness Stanage explained the rate construction at Southeast Missouri points, indicating that the through rates were constructed on combination, using proportional rates to Thebes and local rates south of Thebes, Illinois. In my opinion, when, through commercial conditions, it becomes [fol. 1305] necessary to establish inter-territorial rates on less than full combination of local rates, special consideration must be given to the division of the rates so established, and an equitable basis for divisions placed into effect for each set of lines. It does not seem at all fair, nor proper, as I see it, for the Southwest Lines to be allowed practically their full local rates and the Western

Trunk Lines the difference between such local rates and through rates (Tr. 5729-5730).

Mt. Stanage, as stated, indicated that the through rates were based on full locals south and proportional rates north. The proportional rates used in constructing the through rates are no longer in effect but, regardless of that, in my opinion consideration should be given to the measure of such proportional rates, the necessity therefor, and other things pertinent thereto. I have endeavored to trace back into the records to determine the necessity for the establishment of such rates but have not been able to do so. I was able to develop, however, that these so-called proportional rates were formerly called arbitraries. In Chicago-St. Louis Traffic Association Division Sheet No. 97, the following appears:

"Arbitraries applying on traffic to and from points in Missouri south of St. Louis, Missouri, on the St. Louis, Iron Mountain & Southern, St. Louis, Southwestern and St. Louis-San Francisco Railway." That sheet was in effect in 1924 and provided for a scale of arbitraries, Chicago over East St. Louis, as follows:

1	2	3	4	5	A	B	C	D	E	
—	—	—	—	—	—	—	—	—	—	(Tr. 5730)
40	30	20	15	10	14	12	11	9	8	

I could locate no through rates in effect at that time and whether or not those arbitraries applied as rates to East St. Louis is difficult to state, but it is apparent such was the case, for the reason the arbitraries referred to re-[fol. 1306] mained in effect until 1898, when in Supplement No. 4 to Chicago-St. Louis Traffic Association Division Sheet No. 99, the following appeared: "On traffic to and from points in Missouri, south of East St. Lous, on the St. L. Iron Mountain and Southern, St. Louis Southwestern or St. Louis-San Francisco Railway, local rates will apply east and west of the Mississippi River." This, in my opinion, indicates that the arbitraries referred to, to East St. Louis, applied as rates prior to 1896 and, effective in 1896 they were applied as local rates to and from East St. Louis constructing the through charge. Circular No. 10, issued in 1893 by the Chairman of the Chicago-St. Louis

Traffic Association, announced that to Arkansas the lines north of East St. Louis would receive Texas arbitraries in effect in 1888, and in 1896 Division Sheet No. 105 was issued, applying specifically on Arkansas traffic, and provided for arbitraries of:

1	2	3	4	5	A	B	C	D	E
35	31	25	17	13	14	13	12	10	9

these arbitraries being the Texas divisions which were still in effect in 1900 (Tr. 5730-5731).

I mention this at this time to indicate that a 35 cent scale—applicable on Texas traffic—was made to apply on Arkansas traffic. Whether or not any through rates were in effect, as previously stated, to or from Southwest Missouri at that time could not be developed, but it seems clear from the records that these arbitraries—Texas divisions—whilst published in Division Sheets—were no doubt basing arbitraries to be used in determining through rates to and from Chicago, Illinois. Effective July 15, 1909, this 35 cent scale—while I have stated was the Texas division as of 1888—was published in Western Trunk Line I. C. C. No. 17, applicable on traffic to Arkansas and Missouri when [fol. 1307] no through rates were in effect. In view of the fact that this 35 cent scale as of 1888 applied on Texas traffic and was later made applicable to Arkansas traffic, and still later on Missouri, leads me to the conclusion that the present so-called proportional rates on Missouri traffic can be considered no differently than the so-called arbitraries or differentials Chicago over St. Louis as published in all tariffs naming rates between Chicago and Arkansas, Texas, etc., and should not be considered the measure of the allowance to the lines north of Thebes or East St. Louis, Illinois (Tr. 5731-5732).

Various witnesses for the Southwest Lines have stated that the differentials Chicago over St. Louis, on Arkansas, Louisiana, and Texas traffic should not be considered the measure of the divisions to the Northern Lines. If on Texas, Louisiana, and Arkansas the differentials are admitted to be too low for divisional application, the same situation should be applicable to Missouri. Page No. 1 of my exhibit No. A-250 shows a comparison of these so-called

proportional rates with the local rates currently in effect. The fact that these proportional rates are so materially less than the local rates proves conclusively in my opinion, that they are not proportional rates literally but merely arbitraries, as stated, used in the construction of through rates to Missouri. I have referred to numerous tariffs having proportional rates but in no case could I locate such great differences as between local and proportional rates as exist on Arkansas and Missouri traffic from Chicago, and again state, in my opinion, that these rates cannot be considered in any other light than arbitraries used in constructing through rate. In I. & S. Docket No. 2247 the Interstate Commerce Commission prescribed a scale of class rates for application in Missouri, and in my opinion I find the follow- [fol. 1308] ing: "Recognized bridge arbitraries at Mississippi River crossings may be added wherever and to the extent they now apply, and the rates to and from defined territories should be based on the present differentials over the river crossing," and the respondents in that case, I. & S. Docket No. 2247—100 I. C. C. 277, proposed that rates from defined territories such as Chicago, etc., be constructed on combination of the present differentials over the proposed scale from St. Louis, Missouri (Tr. 5732-5733-5734).

This, of course, indicates also that these so-called proportional rates were also considered differentials by the Commission and by the Southwest Lines. Considering same as such, therefore, it is improper to base the revenue of the lines north of those arbitraries. I think the measure of the through rate, the service performed, etc., by each set of carriers should be taken into consideration in arriving at the proper divisions via East St. Louis and Thebes, to and from points in Southeast Missouri. The Illinois Lines, generally speaking, in the past have never been consulted as to the rates to be published from Chicago. Even under the revised 9702 scale the Southwest Lines published whatever rates they saw fit from Chicago, and this statement is substantiated by the basis used by the Southwest Lines in constructing rates to Cuba, Missouri, Willow Springs, etc., as appearing on Page 97 of Witness Stanage's Exhibit No. 199. For years lines north have been dissatisfied with the revenue received on traffic to or from points in Missouri, between St. Louis and Kansas City, Missouri.

We believe for years, as we do not, that the measure of the rate, service, etc., east and west should be the governing factor in arriving at divisions—yet the Southwest Lines published rates on the 9702 scale, from St. Louis or Thebes, plus these unsatisfactory divisions, and have arbitrarily [fol. 1309] allowed us such proportions without our concurrence. For that particular reason I again state that where rates are based on less than full combination of locals, special consideration must be accorded the divisions of such rates (Tr. 5734-5735).

On pages 29 to 41, etc., of his exhibit Mr. Stanage indicates in detail the manner in which the rates to Southeast Missouri points were constructed—full locals south of Thebes, plus the arbitraries as the factors north. It is also indicated in this exhibit that the lines north of East St. Louis receive 65 per cent of the Thebes basing rate. The Frisco was not a party to the tariff naming these arbitraries to or from Thebes, yet it has exacted, as the exhibit indicates, 35 per cent of a rate in which they do not participate, nor do they handle traffic through the base point, when via St. Louis, and this is true to all Southwest Lines which do not reach Thebes. In my opinion, it is not fair to base divisions on a theoretical base point or in any manner which results in compounding of earnings. These figures, 65 per cent of the Thebes proportions, compared with the locals and so-called proportional rates are also shown on page No. 1 of my exhibit (Tr. 5735).

The effect of prorating the Thebes proportions via East St. Louis is clearly shown on page 2 of my exhibit. This will indicate that the through rate, using Poplar Bluff as representative, has been increased 70.6 per cent, the proportion from Chicago to East St. Louis increased 51.3 per cent, from East St. Louis to Thebes 67.3 per cent, and from Thebes to Poplar Bluff 88.4 per cent. It indicates, due to the basis used, the Southwest Lines compound their earnings at the expense of the Chicago-East St. Louis lines. It also indicates than in 1917, Chicago to Campbell, Mis- [fol. 1310] souri, as representative lines north received 28 per cent of through rate. Regardless of the rate increases, they are now receiving only 26.7 per cent. I will have something more to say later about prorating the Thebes proportions via East St. Louis.

Page No. 3 of this exhibit indicates clearly that the present divisions are unfair to the lines north of East St. Louis. Particular attention is directed to the ton mile earnings. These Missouri points shown are representative of the entire situation in Southeast Missouri. I imagine I am speaking for the Western Trunk Lines now, particularly so far as the Thebes-East St. Louis situation. I have no reason to announce any principle (Tr. 5735-5736).

Page 4 of my exhibit shows the same information via Thebes, Illinois. This page of the exhibit also indicates the per ton mile revenue to the lines north compared with that of the lines south, on average of ten classes. In Docket 11825—66 I. C. C. 359, the following appears: "The division of 94.5 cents per ton yields to the Eastern Illinois 1.11 cents per ton mile as contracted with the Frisco ton mile earnings of 6.45 cents of Sikeston, 2.39 cents to Kennett, 1.73 cents to Turrell and 2.2 cents to Osceola. The record discloses no unusual conditions over the Frisco portion of the through haul which justify so great a disparity." If the Commission, in Docket 11825, condemned the disparity then existing, which ranged from 1.73 cents south to 6.45 cents, versus 1.11 cents north, it is a certainty a division per ton mile which yields to Southwest Lines ten times greater revenue than Northern Lines receive is unfair. Pages Nos. 3 and 4, via East St. Louis and Thebes, indicate without question the unfairness to the Northern Lines of the present division (Tr. 5736-5737).

Pages Nos. 5 and 6 also clearly indicate the unfairness [fol. 1311] to the Western Trunk Lines, in my opinion, of the present divisions of commodity rates on canned goods and other commodities as taken from Witness Stanage's Exhibit. The Missouri points shown are representative and the local rates shown are those which would move the traffic if no joint through rates were in effect. Where any line performs—as in the case of canned goods, which is representative of all of the commodity situations to Southeast Missouri—only 38 per cent of the haul and receives 61 per cent of the revenue, there is something wrong with the divisions. There is no agreed basis for divisions to Southeast Missouri and Southwest Lines are exacting local rates, resulting in a severe penalty being placed upon the lines north of the river crossings. On Page No. 97 of Witness

Stanage's Exhibit 199 the basis for rate construction to such points as Cuba, Missouri, Willow Springs, Missouri, is shown. It is indicated that the rates were constructed on a 54 cent scale over the rates from St. Louis. I referred to this previously and stated that the Southwest lines published rates based on full locals west of East St. Louis plus a divisional factor without the concurrence of Illinois lines. I was not speaking about proportional rates. I was speaking of divisions. Agent Boyd publishes them (Tr. 5737-5738).

The divisions are published for account of all lines; I presume for account of the Western Trunk Lines. I imagine they were published before any through rates were published. I presume that when the through rates came in the Western Trunk Lines added locals to the proportional rates to make the through rates. I stated that I tried to find why this scale was placed in effect. The records do not indicate that. It might be possible that the Southwestern Lines requested Agent Boyd to publish that scale, [fol. 1312] but I could not say. The proportional rate which we put in before the through rates were published is low enough to be an arbitrary. I did not have anything to do with putting it in (Tr. 5739).

Page No. 7 of my exhibit has been prepared showing the net revenue to the lines west of St. Louis, Missouri. In other words, I have prepared the figures by deducting the St. Louis bridge toll, which is paid by the Western Lines, and in all cases the figures shown represent the revenue to the Western Lines west of St. Louis, Missouri. The Missouri points shown are representative and the local rates are those which would apply if there were no through rates. Page No. 8 of my exhibit shows divisions of present rates on miscellaneous commodities north and southbound on Missouri traffic. This exhibit indicates clearly, in my opinion, the unfairness of the present divisions to the Western Trunk Lines. The commodities and the Missouri points shown are representative of the entire situation at points in Missouri west of St. Louis, Missouri. Whilst I can appreciate that the Western Lines might claim that they are entitled to not in excess of the local rates west of St. Louis as maximum, the fact remains that, in actual settlement, the figures which I have shown on this page are being applied.

On page No. 98 of Witness Stanage's exhibit No. 199 is shown revenue to the lines from Chicago to East St. Louis on traffic from New York, Philadelphia, Buffalo, Minneapolis, St. Paul, etc., compared with the allowances to the Chicago-East St. Louis lines on Arkansas-Missouri traffic. Generally speaking, the allowances Chicago to East St. Louis, on New York, St. Paul, Buffalo, etc., reflect an actual mileage prorate, so the comparison made is not at all pertinent (Tr. 5739-5740).

On page No. 99 Mr. Stanage indicates revenue to the lines west on traffic from Peru, Indiana, to Springfield, Joplin and Neosho, Missouri to indicate that on traffic from Peru, Indiana, the proportions west are materially in excess of the divisions received on Chicago traffic. Page No. 9 of my exhibit shows that the rates from Peru, Indiana are made on full combination of local rates, and so divide, and also that the lines from Peru, Indiana—a point 286 miles from East St. Louis—are receiving 80.5 cents on first class versus 54 cents from Chicago—a point 279 miles from East St. Louis. Neither comparison, in my opinion, has any bearing on this case. On pages Nos. 100 to 111 of Witness Stanage's exhibit various illustrations are provided showing revenue to Southwest Lines from Chicago and Central Freight Association territory to Oklahoma. The rates from Central Freight Association territory were constructed originally—prior to the five per cent case—differentially over the rates from St. Louis. Taking Dayton-South Bend territory as illustrative—the rates were based on the Texas differentials over St. Louis of—

[fol. 1313]

1	2	3	4	5
32	37	20	16	11

and in the division of those rates the lines east of East St. Louis received full local rates. If on traffic from C. F. A. territory—the rates having been based on differentials over St. Louis—the Southwest Lines accorded full locals east, it is singular, indeed, in my opinion, that on traffic from Chicago the same basis did not prevail (Tr. 5740-5741-5742).

On page No. 112 of Witness Stanage's Exhibit is an illustration of divisions via Kansas City. Page No. 10 of my exhibit indicates that under the present basis for divisions the lines west of Kansas City, to Carthage and

Joplin, Missouri, receive 41 per cent for performing 25 per cent of the service. To Springfield, Missouri, the lines west receive 44 per cent of the revenue and perform 30 per-
[fol. 1314] sentative and the local rates shown are those which would apply if there were no through rates. I have endeavored to point out in this exhibit that the divisions north of the gateways with Southwest Lines, on Missouri traffic, are, in my opinion, on an improper basis. On page No. 159 of Witness Stanage's Exhibit is found a statement showing divisions on strawberries via East St. Louis and Kansas City. Page No. 11 of my exhibit is an elaboration upon Page No. 159. I have used the same points of origin as used by Mr. Stanage and have used Chicago as the destination, as almost all of the fruits and vegetables from the Southwest go to Chicago. The local rates shown are those which would move the traffic if no through rates were in effect (Tr. 5742).

As to peaches, as per Witness Stanage's Exhibit No. 199 page 167: Page No. 12 of my exhibit No. A-250 clearly indicates that the present divisional basis is unfair to the Western Trunk Lines. The present basis for divisions via East St. Louis yields Illinois Lines 19 mills per ton mile, Southwest Lines, west of St. Louis, Missouri, 35.2 mills, at group 1 stations, 29.5 mills at group 2, etc. Southwest Lines receive from 76 per cent to 82 per cent of the local rate, whereas Illinois Lines receive 50 per cent of their local. Via Kansas City, for 214 miles, 265 and 380 miles, respectively, the lines west receive 44 cents versus 34 cents for 452 miles and at points 304, 317, and 378 miles, respectively west of Kansas City, Southwest Lines receive 49.5 cents and 56 cents versus 34 cents for Western Trunk Lines' haul of 452 miles. Ton mile earnings via Kansas City yield Southwest Lines from 20.6 mills to 41.1 mills, whereas Western Trunk Lines' earnings are only 15 mills per ton mile. The local rates shown are those which would move the traffic if no through rates were in effect. On ap-
[fol. 1315] ples, as indicated on Page No. 13 of my exhibit, Southwest Lines perform service of 35.7 per cent to 43.8 per cent, via Kansas City, of the haul but receive revenue of 59 to 61.7 per cent. Here again the local rates shown are those which would move the traffic if no through rates were in effect (Tr. 5742-5743).

Page No. 14 of my exhibit is an elaboration upon the situation provided for on page Nos. 177 and 178 of Witness Stanage's Exhibit No. 199, showing a mileage comparison together with percent present division is of local rate. A study of these pages will also indicate clearly that the divisions accruing to the Western Trunk Lines are entirely too low.

We offer our Exhibit A-250 (Tr. 5743-5744).

Attorney Muckley here objected to the introduction of the statement referred to as Exhibit A-250 for the reason that there was an understanding at the Galveston hearing that any exhibit to be offered at the present hearing would be sent to the Southwestern Lines prior to the present hearing. Attorney Towner replied that this agreement would have been complied with, but that the last exhibit had been finished about noon today or had not been finished yet, and that he would agree that ten days should be allowed to look the Exhibit over or whatever period might be agreed upon (Tr. 5744-5745).

The Witness (continuing): I know that an agreement was reached in 1924 between the executives of the Western Trunk Lines and the Southwestern Lines on the rates on lumber to Chicago. I presume that fixed the divisions but my understanding is there was some misunderstanding as to the agreement that was reached. We are of the opinion that this agreement applied only to the Blanket Territory; that there was no thought that this would extend it to the lower rated territory (Tr. 5745).

[fol. 1316] (Examiner Disque here said "Exhibit A-250 is received") (Tr. 5746).

(The statement described by the witness was thereupon received in evidence as Exhibit A-250.)

[fol. 1317] I now offer exhibit A-251 and this statement is confined to Arkansas. Mr. Sickel explained at length the rate construction between Arkansas points and points in Western Trunk Line terirtory. In substance his explanation was that rates to Arkansas common points were based differentially over St. Louis, Missouri. To so called local points prior to October 7, 1913 rates were based on full locals south of Thebes, Illinois plus so called proportional rates

north. Effective October 7, 1913 to these local points, through rates were established based on the regular differentials used in constructing the rates to Arkansas common points.

Numerous commodity rates, however, continued to be based on combination. In such cases the rates were based on full locals south of Thebes, Illinois and proportional rates north (Tr. 5746).

In my testimony as to Southeast Missouri, I stated that the records were not at all clear for the necessity for the proportional rates. I stated that the proportional rates were originally the divisions accepted by the Northern Lines on Texas traffic, and later those divisions were accepted on Missouri and Arkansas. Neither is the Committee record clear as to the necessity for the proportional rates on Arkansas traffic. I also stated that these proportional rates could be considered no differently than arbitraries or differentials to be added to the rates west of St. Louis or Thebes, Illinois and my opinion is the same as to Arkansas. The fact that the rates at Arkansas common points were based differentially over St. Louis and rates at local points originally based on combination using full locals south and proportionals north has resulted in a divisional basis which has been a source of constant trouble for a number of years, which will continue until such time as a clear and definite basis is placed into effect via the points at which the traffic is interchanged with Southwest Lines. [fol. 1318] Prior to the establishment of through rates to the local points the Southwest Lines insisted that the lines north of East St. Louis from Chicago were not entitled to any greater division than 65 per cent of the proportional rates applicable from Chicago to Thebes, Illinois. The contention was in that the rates to these points were originally based on Thebes the lines north of Thebes could not expect any greater division than the proportional rates, and that basis having been established via Thebes they could not expect via East St. Louis other than a prorate of the Thebes proportional rates. This having been the contention as to divisions to local points it also applied to Arkansas common points, or in other words on all Arkansas traffic the lines north of East St. Louis were restricted on traffic from Chicago to 65 per cent of the Thebes proportional rates (Tr. 5746-5747-5748).

It has been the practice of the Southwest Lines to publish rates to Thebes, Illinois—considerably lower than the rates to St. Louis, Missouri. The reason for that was apparent. It permitted the Southwest Lines to receive full rates to Thebes, Illinois, plus a division of the northern lines rates from Thebes, which division resulted in practically every case in excess of that which would accrue to them had the rates to Thebes been properly alligned with those in effect to St. Louis, Missouri or vice versa. There were few instances where the rates to St. Louis plus the rates north would result in the same total as the rates to Thebes plus the rates north, and in *fasiug* the rates on Thebes, Illinois and forcing the lines north of East St. Louis to accept a prorate of the low proportional rates, the Southwest lines received the benefit of approximately the local rates west of East St. Louis, Illinois in the division of the through rates on Arkansas traffic or in the division of [fol. 1319] rates constructed on combination of proportional rates north and full locals south. Where rates were based on Thebes, Illinois, using proportional rates north and full locals south, the proportional rate was the measure of the Northern Lines division via Thebes (Tr. 5748-5749).

Quite a large volume of this traffic was and is handled via East St. Louis, Illinois, thence to St. Louis, Missouri via this route it would not move through Thebes, Illinois. The Southwestern Lines such as the Frisco and Missouri Pacific, if the latter decided to handle traffic via its west side line—decided that there was an element of competition involved and using the argument that in that the Illinois lines accepted a prorate of the Thebes proportional rates with the east side lines the same basis should be applied with the west side lines. Unfortunately, some of the Illinois lines agreed to prorate the Thebes proportional rates via East St. Louis on traffic not moving via the Thebes gateway on Missouri and Arkansas traffic—this resulting in the West Side Lines receiving 35 per cent of a rate to which they were not a party. Whilst the Committee division sheets entered into this record show specific proportions to Thebes and also to East St. Louis applicable on traffic between Chicago and Milwaukee Divisional Groups and beyond, the fact remains that in actual practice the lines north of East St. Louis are not being accorded in all instances the Commit-

tee basis for divisions but are continually confronted with the question of prorating the Thebes proportions via East St. Louis (Tr. 5749-5750).

Page 1 of my exhibit shows the different bases applied on Arkansas traffic from Chicago Divisional Group. Pages 1-A and 1-B show that from Chicago to East St. Louis a prorate of the Thebes proportions on traffic handled [fol. 1320] through Thebes was being applied in 1916, to all Arkansas points regardless of the fact that the so called Thebes combination was destroyed in 1913 by publication of through rates to the local points. The prorate basis applied to common points also. Page 1-C shows that the C. & E. I. did not prorate the Thebes proportions via East St. Louis via West Side Lines but as stated other lines did prorate. In July 1923, when Division Sheet No. 5 was being issued to bring forward the old divisions to reflect the general rate changes, the Illinois lines suggested to the Southwest lines that a provision be incorporated in that sheet to provide that the Thebes proportions would not be prorated via East St. Louis, Illinois but the Southwestern Lines stated that as so many rates were originally constructed on Thebes combination or at that time—1923, were also based on Thebes, it would be not proper to include this provision. The Missouri Pacific representative, however, stated that that line would not expect the Northern lines to accept 65 per cent of the Thebes proportions unless the current combinations made on Thebes, Illinois (Tr. 5750).

The Division Sheet was issued without the provision that the Thebes proportions would not be prorated via East St. Louis and the result is confusion. It is not possible to state definitely what basis for divisions is being employed on Arkansas traffic, but if the Southwestern Lines in 1923 did not consider it necessary to continue the prorate basis it is peculiar indeed that they refused to place into the Committee sheet a provision that would clear up the situation. All that I have said with respect to prorating the Thebes proportions via East St. Louis may also be applied to Southeast Missouri. Page 1-D is a reproduction of a letter from Mr. W. H. Malcom of the Missouri Pacific dated April 26, 1926, file A. F. R. -656, to various auditors of the Northern [fol. 1321] Lines. It contains a suggestion for simplified percentages. In the third paragraph he states that the

traffic department has suggested that divisions via East St. Louis to points South of Gad's Hill and Fredericktown, Missouri be based on a prorate of the Thebes proportions, —further stating that the rates to that territor- were originally constructed over Thebes, Illinois. The rates to Arkansas local points were likewise originally constructed on Thebes, Illinois. Witness Sickel has indicated in all of his exhibits that the Northern lines received, when the rates were reduced on October 6, 1913, an increase in divisions and that the prorate basis was not applicable (Tr. 5750-5751).

If on traffic to points in Missouri, where the rates were originally based on Thebes combination the Missouri Pacific requires 35 per cent of the rates to Thebes,—it does not seem possible that to the Arkansas points to which the rates were also based on Thebes—the Southwestern lines voluntarily increased the proportions to the Northern lines as indicated in Exhibit A-143 and others.

Throughout Mr. Sickel's testimony I find that he has referred to the increase to the Illinois Lines under the 5 per cent case in 1914. The through rates to territory east of the Illinois-Indiana state line were not increased to reflect the 5 per cent advance, but the Southwestern lines accorded the Eastern lines the increase of 5 per cent in their proportions. When the Illinois lines requested similar treatment serious objections were recorded by the Southwest lines. After a long siege of negotiations, however, the Northern lines were allowed by the Southwest lines a division reflecting the 5 per cent increase.

Throughout the testimony of the witnesses for the Southwest lines, I find particular emphasis on the Milwaukee-[fol. 1322] Texas divisional basis whereunder the lines north receive 15 per cent, plus 20 per cent of the remainder for services to East St. Louis. The demands of the Southwest Lines for full rate to Thebes, Illinois, plus 35 per cent of the rate or division north however seems to be proper according to the witnesses for the Southwest Lines (Tr. 5752-5753).

Throughout Mr. Sickel's testimony and exhibits he has used 56 cents scale for application to East St. Louis from Chicago. As that scale is not being applied uniformly an entirely different picture would result if revenue to the

Northern Lines were based on a prorate of the Thebes proportions. Exhibit A-143 shows information as to rates and divisions to Bald Knob, Arkansas. Witness states that that exhibit was illustrative of the situation at all Arkansas local points to which no through rates were in effect prior to October 7, 1913. Effective on that date through rates to these local points were published differentially over St. Louis, Missouri resulting in reductions to all Arkansas local points. The necessity for the reduction is not apparent as is shown on page 2 of my exhibit. The rate to Higginson, Arkansas immediately south of Bald Knob, Arkansas, was the same as the combination rate to Bald Knob on first class and somewhat lower on the remaining classes. The Southwest lines, however, scaled their rates when publishing the through rate as of October 7, 1913 and have placed into the record numerous exhibits showing the shrink in the proportions to the Southwestern lines—resulting from their own decision to place these rates on a differential basis Chicago over East St. Louis, which was made of their own volition without the concurrence or knowledge of the Illinois Lines (Tr. 5753-5754).

In Exhibit A-143 Mr. Sickel shows the reduction in Southwest Lines revenue resulting from the reduction in the rate [fol. 1323] and an increase in divisions to the lines north. Whether or not the Northern Lines received the 35 cent scale as shown in that Exhibit as of October 7, 1913 is questionable but regardless of that Mr. Sickel did not show in his exhibit that on October 6, 1913 the division north of East St. Louis was 62.7 per cent of the local rate north, wherein revenue to the Southwest lines, due to the compounding basis in effect, resulted in their receiving in excess of 100 per cent of the locals from East St. Louis, Illinois. It doesn't seem fair to make comparisons from October 6, 1913 without giving consideration to the fairness of the division north of East St. Louis, Illinois. Page 2-A shows the divisions north and south in effect on October 6, 1913 to representative points. In each case shown the basis for divisions then in effect accorded Southwest Lines in excess of local rates. Page 2-A also shows a percentage comparison of the division as of October 6, 1913 north with a mileage basis. Even under the 35 cent scale as of October 7, 1913 shown in exhibit A-143, the division north of East St. Louis,

Illinois on 10 classes is only 32 per cent of the through rate. Surely some thought should be given to the measure of the divisions in effect prior to the rate changes before serious consideration can be given to the statements that the Southwestern Lines have been penalized by the rate and divisional changes (Tr. 5754-5755).

Page 3 is self-explanatory. Whatever occasioned the reduction in the rate or the shrink, if any, in the proportions seems to be immaterial. Page 3 will indicate clearly that the rate has been increased 69.9 per cent over October 7, 1913 but Southwest Lines revenue has been increased 89.4 per cent. The shrink, if it can be so considered, in view of the statement I have just made, seems to have been fully taken up and something in addition. Page 4 shows the 1913 [fol. 1324] divisional situation at Bald Knob, Arkansas. It doesn't seem likely that the Southwestern Lines reduced the rate and voluntarily accorded the lines north increased divisions, but even so under the October 7, 1913 basis the lines north received materially less service considered than they should have received. Page 5 of my exhibit shows the current divisions of the current rates, Chicago to Bald Knob, Arkansas. Due to the fact that two bases for divisions may be operative, I have shown the divisions thereunder. On basis of figures for Illinois Lines shown in Exhibit A-143 lines north receive 30 per cent of the through rate and perform 49 per cent of the haul. On basis which Illinois lines understand may be applied, Northern Lines receive 22.5 per cent of the through rate. This page is also representative at other local points where Southwestern lines reduced the rates to the differential basis over St. Louis, Missouri (Tr. 5755-5756).

In Exhibit A-142 Mr. Sickel showed reductions in revenue to the Southwest Lines on Little Rock, Arkansas, occasioned by rate changes, etc. Page 6 of my exhibit shows in 1896 lines Chicago to East St. Louis on Little Rock traffic received 29.2 per cent, in 1898 32.3 per cent and at the present time either 28 per cent or 20.8 per cent of the through rate. The haul north of East St. Louis is 44.4 per cent of the total. In 1898 the division South, total of 10 classes, was 375 and the through rate 554. Current rate is 1025.5—an increase of 471.5 or 85 per cent. The current division is 738.5, an increase over the 1898 division in excess of that made by the

Southwest Lines. Due to the two bases for divisions operative via East St. Louis I have shown the effect in each case. Lines North receive either 28 per cent or 20.8 per cent of the through rate for performing 44 per cent of the haul. Witness Sickel complained of the action in placing Milwaukee on the Chicago basis to Arkansas. He shows on [fol. 1325] Page 3 of Exhibit A-142 that the Southwest Lines reduced their revenue materially in 1898 as a result of that action (Tr. 5756).

In my opinion, there should be first taken into consideration, whether or not the 1896 divisions were proper. Mr. Sickel seems to have overlooked the fact entirely that the division North of East St. Louis was very low and the division South of East St. Louis within 4 per cent of 100 per cent of the local rate. It isn't fair as I see it to compare the amount of the reduction against an unfair factor.

Page 6-A, however, regardless of that, is self-explanatory. It indicates in 1896 the average per ton mile rate west was 215 per cent of the per ton mile revenue East. In 1898 due to the reduction occasioned by placing Milwaukee on the Chicago basis the Southwestern Lines revenue is 171 per cent of that accruing to the Illinois lines. This, of course, indicates that the Southwest Lines assumed a reduction, but the 1898 divisions do not seem to be fair to the Northern Lines. Of course, I am not familiar with the situation existing in 1898 but it doesn't seem that 37.7 per cent of the rate for joint haul north of 50.7 per cent of the total is a fair comparison. Whatever reduction was made seems to have been recovered as the current situation will indicate. In 1896 the revenue west was 215 per cent of the revenue east, in 1898 171 per cent and currently 211 per cent (Tr. 5756-5757).

These figures are based on the divisions shown by Mr. Sickel. I am not certain that the basis shown has been applied all these years, but regardless of that fact there seems to be no good reason why the Commission should take into consideration, as I see it, the fact that the Southwest Lines have shown, by numerous exhibits various shrinkage in their revenue which doesn't mean a thing, when the fair-
[fol. 1326] ness of the original factor has not been determined.

Exhibit A-142 shows divisions between Milwaukee, Wisconsin and Minneapolis and Little Rock, Arkansas. Page 7 of my exhibit shows for 364 miles at Milwaukee and 568 miles at Minneapolis, lines north are receiving 32.7 per cent and 35.4 per cent respectively for 61 per cent of the haul at Milwaukee and 62 per cent at Minneapolis. Page 8 shows divisions between Chicago and Little Rock, Arkansas, via Thebes, Illinois. In 1896 via Cairo, Illinois lines north received 33.3 per cent of the rate and performed 59.7 per cent of the haul, in 1898 37 per cent, and at present 32 per cent or 20.8 per cent as illustrated on Page 6.

Page 9 shows the divisions between Little Rock, Arkansas and Chicago territory west of the Mississippi River via East St. Louis, Kansas City and Thebes, Illinois via East St. Louis. Present division is 28 per cent north via Thebes 32 per cent, and via Kansas City only 23 per cent. Page nine of Exhibit A-251 replies to the exhibit filed by Mr. Sickel (Tr. 5757-5758).

Page 10 via Kansas City Lines east at Cedar Rapids 23 per cent and at Davenport only 21 per cent. Portion of haul east is 37 per cent at Cedar Rapids. At Des Moines via East St. Louis lines north receive 35 per cent—portion of haul 49 per cent. All of these pages show in my opinion that the current divisions, to the lines north are too low. Mr. Sickel proposed certain percentages for application on Arkansas traffic. Pages 11 and 12 of my exhibit show the effect of this basis. In arriving at the proposed basis via East St. Louis Mr. Sickel suggests an average of 10 classes to Thebes from eighteen representative points—Joliet and Kankakee omitted—applied to the rates south of Thebes. He then suggests that that figure be prorated via East St. Louis on basis of 65 per cent north, 35 per cent south. Ex- [fol. 1327] hibit on traffic via Thebes, shows 39 cars from Illinois to Arkansas—29 of which originated at points 375 miles from Thebes, yet he proposes an average rate from 18 representative points included in which are points 200, 210, 230 and 240 miles north (Tr. 5759).

If a prorate basis as suggested is satisfactory to the Southwest lines for application via Thebes to determine the factor north to be used in constructing divisions via East St. Louis, Illinois a prorate basis should be satisfactory—not only for the purpose of placing into effect a scientific

basis for percentages, but for practical application. By that I mean a rate prorate basis might properly be applied via Thebes, Illinois using local rates to and from that point for application on traffic interchanged at that point. And the same basis applied via East St. Louis or Kansas City. Mr. Sickel also suggested that whatever divisions are placed into effect via East St. Louis be made applicable via Kansas City, Missouri. Page 10 of my exhibit shows that the lines from Chicago territory west of the Mississippi River at the present time are only receiving 23 per cent of the through rate—yet he proposes to reduce that to 21.5 per cent. In my opinion the proposed basis for divisions does not merit any consideration whatsoever.

This proposed basis further indicates that the Southwest lines whilst criticizing the Northern Lines severely as to the Milwaukee-Texas basis for divisions via Chicago, suggest a basis similar for application on future traffic. After determining the divisions via East St. Louis, based on 65 per cent north of East St. Louis of a prorate basis over Thebes, it is then suggested that the divisions via Thebes be made the same difference over the proposed East St. Louis division as the difference in the local rates from Chicago to Thebes, Illinois versus East St. Louis, Illinois (Tr. 5759-5760).

[fol. 1328] For basing purposes via East St. Louis, Mr. Sickel suggests a percentage division north of Thebes of 33 per cent but for actual operation via Thebes on traffic interchanged at Thebes it is suggested that 25½ per cent be the division. It seems that the 65 per cent and 35 per cent basis will never be lost sight of by the Southwest lines regardless of the impropriety of that basis. The letter reproduced on Page 1-D so indicates. The divisions should apply to and from the actual point of interchange. The Commission in 31 I. C. C. 675 held accordingly. Page 13 shows percentage of haul versus percentage of revenue received on all Arkansas traffic taken from Witness Bones Exhibit A-116. Pages 14, 14-A and 14-B of my exhibit show a comparison of the present divisions from Chicago, Illinois to East St. Louis, Illinois at representative Arkansas points, with local rates east and west.

In Exhibit No. 155 Mr. Sickel shows that the lines north of East St. Louis are receiving full local rates and the

lines south 11.5 cents less than locals on potatoes from Minnesota points to Little Rock, Arkansas—this is nothing unusual. When rates are less than combination neither set of lines can expect full local rate. Lines north are receiving on potatoes from Waupaca for 499 miles to East St. Louis 27.5 cents, lines south 33.5 cents and via Thebes for 583 miles lines north receive 33.5 cents, lines south 27.5 cents to Little Rock (Tr. 5760-5761).

From Waupaca at Batesville, Arkansas, a point 296 miles west from St. Louis and 201 miles from Thebes, the lines north of East St. Louis receive 27.5 cents for 499 miles, lines south 33.5 cents for 583 miles compared with 27.5 cents [fol. 1329] south for 201 miles. And from Waupaca to Wagoner, Oklahoma to which point the rate is 59½ cents under the established division, the lines north receive via East St. Louis 20 cents for 499 miles service, south 39½ cents for 587 miles. The fact, therefore, that lines north are receiving full local rate on that particular traffic and lines south less is not pertinent. In Exhibit A-156 Mr. Sickel showed in the division of through rates on cheese from Wisconsin points to Little Rock, that the division north of East St. Louis of 46½ cents is only 1 cent less than the proportional rate North, and that the division south is 9½ cents less than the commodity rate. He did not indicate, however, that the division north was 13 cents less than the local rate from Milwaukee to East St. Louis, Illinois. He also failed to point out specifically that the lines north for 364 miles, using Milwaukee mileage, it being considerably greater from the cheese producing points, receive only 46.5 cents to East St. Louis and Southwestern Lines for haul is 353 miles from East St. Louis to Little Rock receive 86.5 cents (Tr. 5762).

Another point raised by Mr. Sickel is the fact that the Northern Lines receive full class proportions in the division of many commodity rates on which there are no commodity divisions. The Southwest Lines suggest that the proper division for the Illinois Lines is to first determine what percentage the commodity rate is of the class rate, and apply that percentage to the class proportion north. If a commodity rate bears no relation whatever to the class rate—that basis is improper. As the class proportions

north are unduly low to the Northern Lines, the result, by the application of a still lower basis, that is, a percentage of the low class proportion, is apparent. It works entirely to the advantage of the Southwest Lines. Divisions of com-
[fol. 1330] modity rates, which bear no relation to class rates, should be established on their merits. On exhibits Nos. A-144 to 147 is shown the fact that revenue to the southwest lines is less than the local rates south. Page Nos. 14, 15-A and 15-B of my exhibit show the same situation north or east of the gateways together with other comparisons.

We offer exhibit A-251 (Tr. 5762-5763).

(The statement described by the witness was thereupon received in evidence as Exhibit A-251.)

[fol. 1331] Cross-examination:

Page 12 of Exhibit A-249 near the bottom of the page, purports to show all of the lumber interchanged via the East St. Louis gateway from Texas to Illinois points and shows the per ton mile earnings to the Southwestern Lines of 9.25 and ton mile earnings to the Western Trunk Lines of $7.48. It is a fact that the weight of all cars will be the same at each side of the interchange point on this interchange traffic (Tr. 5764).

If my figures are incorrect, they were taken from Mr. Bones' exhibit. The ton mile earnings were taken from that exhibit. I did not compute them at all.

As to the lumber originating on the tap lines, I don't know if the Southwestern Lines make any absorption. The Southwestern Lines do pay the tap lines a division. I presume that would come out of their portion of the revenue. I stated that the absorptions at Chicago are reciprocal arrangement. That is between the lines parties to the rates. Most of the lumber moving from the Southwest to Western Trunk Line Territory moves over lines involved in this case. If the C. B. & Q. switched for the Rock Island the Rock Island would switch for the C. B. & Q. (Tr. 5765-5766).

E. J. SCHMIDT was thereupon recalled as a witness and testified as follows:

Direct examination:

At Mr. Outlaw's request I rechecked the Texas-Illinois figures on Exhibit A-249 and found that the figures had been reversed. The corrected figures are revenue per ton mile for the Southwestern Lines 7.48 mills; for the Western Trunk Lines 9.25 mills.

Mr. Stanage in his testimony talked about the expense to the Southwestern Lines in handling less carload freight (Tr. 5767).

[fol. 1332] A study of C. & E. I. absorptions and costs of handling at Chicago has been made for week October 19th to October 24, 1925, which is a typical week, and I would like to read into the record the following: L. C. L. traffic to Texas:—101 tons—Total revenue north $828.31, out of which actual absorption to the C. J., Illinois Tunnel, etc., amounted to $164.33 or about 19.8 per cent of the total revenue north of East St. Louis, Illinois. L. C. L. traffic to Missouri:—155 tons—total revenue north $1,235.13, out of which actual absorption to the C. J., Illinois Tunnel, etc., amounted to $229.33 or 19.4 per cent of the revenue north. L. C. L. traffic to Oklahoma:—101 tons—total revenue north $733.27 out of which actual absorption to the Illinois Tunnel, C. J., etc., amounted to $135 or 18.4 per cent of the revenue north of East St. Louis. L. C. L. traffic to Louisiana:—18 tons—total revenue north $215.84, out of which we absorbed $23.10 or 11 per cent of the revenue received of East St. Louis. L. C. L. traffic to Arkansas:—38 tons—total revenue north $345.61 out of which we absorbed $52.52 or 15.3 per cent of the revenue received (Tr. 5768).

The C. & E. I. is quite a heavy handler of this L. C. L. freight to the southwest. It operates a number of packet cars to the Southwest. The figures I have read are revenue and absorptions during the week.

Cross-examination:

That is the absorptions and applies not only to trap cars. A lot of stuff comes through the Merchants Lighterage or the Illinois Tunnel. This refers to freight received from the tunnel (Tr. 5769).

We could receive the same freight at our warehouse and [fol. 1333] freight station in Chicago, but the shipper, of course, has the option of using the tunnel as well. We have given him that option under the tariffs. That is an entirely voluntary thing on the part of the Chicago lines. They were not required to do so (Tr. 5770).

W. G. WESCOAT was thereupon called as a witness and testified as follows:

Direct examination:

I live in St. Louis and am Chief of the Division Bureau of the Wabash Railway (Tr. 5770).

Attorney Muckley here conceded the witness' qualifications.

My first exhibit will be No. A-252. Sheet No. 1 is a statement of class rates and divisions between Chicago and Texas common points via East St. Louis, showing the rates in effect December 1, 1892, and the present rates. Out of the present rates the lines north are only receiving 75.3 per cent, while the Southern Lines have succeeded in maintaining the same ratio. In other words, the percentage relationship of proportion of lines north has decreased 8.5 per cent, with no change south. Sheet No. 2 shows rates and divisions between Chicago and Texas common points, except Dallas and Fort Worth via Kansas City, in effect December 1, 1892, August 20, 1922, and the present basis. The local rates north and south of Kansas City and the percentage relationship of the division to the local rate. There has been no material change in the ratio, either north or south of Kansas City in this respect, however, we have shown what the result would be by applying a rate prorate using the proposed scale from the Chicago to Kansas City under I. C. C. Docket Ex Parte 87, Sub. 1 and the proposed rate from Kansas City to Texas common points in I. C. C. Docket 13535, which would result in an average increase [fol. 1334] to the Western Trunk Lines from 42.8 cents to 58.4 cents (Tr. 5771-5772).

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I was talking about the proposals in Ex Parte 87. I am not familiar with whose proposals they were.

Attorney Towner here conceded that the witness had taken the proposals of the carriers north of the junction and the proposals of an Examiner south of the junction.

The Witness (continuing): I am not familiar with that rate case at all (Tr. 5772).

Sheet No. 3 shows rates and divisions between Des Moines and Texas common points showing same information as on sheet No. 2, except that we have not shown the rates from Des Moines in 1892 as we were unable to secure this information as the tariffs were not available. It will be noted that using the proposed rates north and south of Kansas City would increase the average earnings of the lines north from 37.5 cents to 41 cents. Sheet No. 4 shows rates and divisions between Davenport and Texas common points. Same information as on sheet No. 2. Sheet No. 5 shows rates and divisions between Chicago and Dallas—Fort Worth via Kansas City. Shows the same information as to the Texas common points except that the through rates to Dallas and Fort Worth are the same as to the Texas common points, however, the local rates south of Kansas City are lower, consequently a rate prorate would reflect to the northern lines greater proportions to Dallas and Fort Worth than to Texas common points (Tr. 5773).

Sheet No. 6 shows rates and divisions between Des Moines and Dallas—Fort Worth via Kansas City. It differs from the other sheets to the extent that it shows that the lines north receive slightly greater percentage of their local rates than the lines south. This is due to the fact that Des Moines is a short haul point for the Western Trunk Lines, however, using the proposed rates north and [fol. 1335] south of Kansas City as factors would increase the average earnings to the lines north from 37.5 cents to 47.1 cents per 100 pounds. Sheet No. 7 shows rates and divisions between Davenport and Dallas—Fort Worth. Same information as on previous sheets and shows that the lines south are receiving out of the present rates 91.3 per cent of their local rates, while the northern lines receive eastbound 74.8 per cent; westbound 72.8 per cent. The ratio of the southern lines has increased 5 per cent since 1902.

Attorney Towner here offered the statement as Exhibit A-252.

The Witness (continuing): I want to make the further statement in connection with that that these statements show they apply southbound only, but the same rates and divisions apply northbound also (Tr. 5773-5774).

(The statement described by the witness was thereupon received in evidence as Exhibit A-252.)

[fol. 1336] Here there was a discussion as to whether the Exhibit should be received because it was not the original. Attorney Towner stated that he was going to bring the original in and further discussion of the matter off the record ensued.

The Witness (continuing): I think that I stated in connection with the Davenport sheet that the proportions the Southwestern Lines were getting were now five per cent more than back in 1892. I had reference to the statement in the top of the block, percentage relationship of division to local rates, 86.5 in 1892, and the last figure in the last block, 91.3. That was what I had in mind. I don't know what the reason for that was. It is just the way it falls, by using the average it shows at present south the ratio is 5 per cent greater than it was in 1892 (Tr. 5775).

It must have been because of an increase in the rates in the Southwest. We can tell. The rates are on there. It shows that the rate south first class was increased from 88 to 97.5. The Western Trunk Line rates were increased $1.26.

Attorney Towner here stated that the rates are all there, so that by comparing them you can see what change in the percentage was made.

The Witness (continuing): We just simply took the rates and that was the result we got (Tr. 5776).

I assume that the rates shown in Chicago would apply at all points taking Chicago rates. The local rates to East St. Louis would probably not all be the same. The statement only covers Chicago. If it applied to anything else but Chicago I would have to check the local rates. The exhibit was prepared under my direction (Tr. 5777).

Exhibit A-253 consists of three sheets showing the present rates and divisions between Chicago and representa- [fol. 1337] tive points in Louisiana via East St. Louis. The points selected are those used by Mr. Sickel in his exhibit No. A-168. Established percents are in effect between Chicago and Shreveport, Pinesville, Monroe, West Monroe, Boyce and Alexandria, Louisiana. To the territory south of these points there is no agreed basis of divisions via East St. Louis or Cairo-Thebes, however, in making settlements the Southern lines arbitrarily allow the lines north the established Texas common point percents applied to the actual rate to the Louisiana points which rates are on a considerably lower scale than the Texas rates. The service of the lines north is the same, however, under the plan the Southwestern Lines use our revenue is considerably lower on the Louisiana traffic than on Texas traffic. In our statement we have used the Texas percentages, as these are the proportions that are being allowed us in current settlements. Sheet No. 2; rates and divisions between Chicago and Opelousas and Bunkie. Same information as on sheet No. 1 the rates being practically the same (Tr. 5778).

Sheet No. 3; rates and divisions between Chicago and Shreveport. The established percentages allow the lines north of East St. Louis 30 per cent on an average earning on the ten classes of 35.7 cents. The through class rates are the same from Chicago to Shreveport as they are to Randolph and Natchitoches.

The statement was thereupon offered in evidenec as Exhibit A-253 (Tr. 5778-5779).

(The statement described by the witness was thereupon received in evidence as Exhibit A-253.)

[fol. 1338] The lines north of St. Louis take Texas common point revenue in connection with traffic from Louisiana to East St. Louis and points north if they follow instructions. I am sure those are the instructions so far as the Wabash is concerned. That is not an agreed basis. That is on northbound traffic (Tr. 5779).

Exhibit 254 shows rates and divisions between Chicago and representative points in Louisiana. Shows the same information as Exhibit A-253 except that the route is via Cairo, Gales or Thebes. Sheet No. 2; to Opelousas and

Shreveport. To Shreveport, the lines north receive 40 per cent, however, the sheet carries a clause retricting the lines north and south of these junctions to their local rates. Sheet No. 3; rates and divisions between Chicago and Bunkie, Louisiana. Present divisions allow the lines north 22 percent, Texas percents.

The statement described by the witness was thereupon offered in evidence as Exhibti A-254 (Tr. 5780).

(The statement described by the witness was thereupon received in evidence as Exhibit A-254.)

[fol. 1339] Exhibit A-255 shows rates and divisions between Milwaukee and representative points in Louisiana. Sheet No. 2 is rates and divisions to Opelousas and Bunkie. Sheet No. 3; rates and divisions between Milwaukee and Shreveport (Tr. 5780).

By applying the Louisiana percents or these Texas percents on south bound Louisiana traffic we have failed to show on this exhibit that north of Chicago or Milwaukee they get 15 per cent of the through rate and the line between Chicago and East St. Louis gets 20 per cent of the remainer. I am now talking about what will be Exhibit A-255 when numbered. Referring to the second column near the top of the page, just under second class should be 46.4; above that 232. The next figures 196, 161, and 137. Reading them down, 46.4, 185.6, and 97. The second column, 196, 30.2, 156.8, 81.9, 114.1. The others are all right (Tr. 5781).

The exhibit described by the witness was thereupon offered in evidence as Exhibit A-255 (Tr. 5782).

(The statement described by the witness was thereupon received in evidence as Exhibit A-255).

[fol. 1340] Exhibit 256 is a statement of rates between points in Missouri and Monroe, Louisiana and Shreveport via St. Louis, Missouri. The rates from these points being on the St. Louis basis. Established percents are in effect. Mr. Sickel in his Exhibit A-175 attempts to show that the proportion allowed the lines north or west of St. Louis is a shrink in the Southwestern Lines' proportion. This is hardly fair to the Northern Lines as we could hardly be expected to handle this traffic for nothing. This rate situa-

tion being one that was forced on the lines as a whole and is due to the spread in the St. Louis rates, and we have shown on this sheet not only the amount that the lines south of St. Louis receive less than their local rates, but likewise the amount the lines north receive less than their locals, this being the so-called shrink in the Exhibit referred to. Sheet No. 2 shows same information as sheet No. 1 between the same points in Missouri and Lake Charles and LaFayette, Louisiana, to which points the lines north are allowed Texas percents (Tr. 5782).

Sheet No. 3; between the same points in Missouri as on the previous sheet, and Donaldsonville, Louisiana where the lines north are allowed Texas percents.

The statement described by the witness was thereupon offered in evidence as Exhibit A-256.

(The statement described by the witness was thereupon received in evidence as Exhibit A-256.)

[fol. 1341] Exhibit No. A-257 refers to Trovillion's Exhibit No. 226 and shows the rates and divisions on cotton seed products from Dallas, Texas to Chicago, Peoria, St. Paul and Cedar Rapids, Iowa via both Kansas City and East St. Louis. This exhibit shows the through rate, the divisions north and south of the junction, local rates north and south and the percentage relationship of the division to the local rates both north and south, what the divisions would be based on a rate prorate and the percentage relationship that would result from the application of divisions based on a rate prorate, the mileage and the divisions that would result via the application of the mileage prorate, and the percentage relationship to the local rates based on mileage prorate (Tr. 5783).

The mileages used are those shown in Parson's exhibit No. 77, which are the mileages that have been used in various exhibits filed in this case. The rates on cotton seed products from Southwest to points in Western Trunk Line territory have recently been revised and are published on a mileage basis in Southwestern Lines' Tariff 135-A, Western Trunk Line Tariff 180-A. No agreement covering divisions has been made in connection with these new rates and in arriving at the divisions we have used the old rates and divisions as factors, this being the customary plan in the

absence of any agreed figures. To Chicago for example via Kanass City under this basis the lines north receive 12.5 cents, south 30.5 cents, the local rate being north 21½ cents, south 34 cents. This results in the lines north receiving only 58.1 per cent of their local while the lines south receive 89.7 per cent. A rate prorate would allow the lines north 16.7 cents, south 26.3 cents. A mileage prorate would allow the lines north 20.2 cents, south 22.8 cents, and would reverse the percentage relationship based on our present division and would allow the lines north 94 per cent of their local, south 67.1 per cent (Tr. 5784).

[fol. 1342] To Peoria via Kansas City; the rate through on cake and meal is 41 cents, on hulls 31 cents. We have used a revenue prorate of the old rates and divisions to arrive at proportion of 12.6 cents shown to the lines north of Kansas City. The proportion north on the hulls is 7.9 cents, south 23.1 cents, which results in a percentage relationship to the local rate north of 40.5 per cent, south 88.8 per cent. Via East St. Louis; the proportions to all the points shown on this statement speak for themselves.

We did not use the old rate to make a rate prorate. To get the divisions of the present rate we used the former rate and the former divisional factors. We used the former rates because we had no other basis to use. We had not agreed on how these new rates would divide. The old rates were not prorates. They were just agreed divisions, applying in connection with the through rates. We made a new division based on the old rates and divisions to get the percentage factor, arriving at a through rate on that percentage (Tr. 5784-5785).

The statement described by the witness was thereupon offered in evidence as Exhibit A-257(Tr. 5786).

(The statement described by the witness was thereupon received in evidence as Exhibit A-257.)

[fol. 1343] Exhibit A-258 is a statement of rates and divisions on live stock and fresh meat from Ft. Worth to Chicago via Kansas City and East St. Louis. The information shown is the same as on cotton seed products covered by Exhibit No. 257. Divisions via East St. Louis are on an arbitrary basis and while our file does not show how these figures were arrived at it is our recollection they were the

old local rates advanced in the same measure as the through rates. Fresh meats. The through rate on fresh meat from Ft. Worth to Chicago is 74.5 cents. The established divisions allow the lines south of Kansas City 70 per cent. However, they are restricted to their local rates as a maximum, and 70 per cent would allow them 52 cents or 3 cents in excess of their local rates (Tr. 5786).

The statement described by the witness was thereupon offered in evidence as Exhibit A-258 (Tr. 5786-5787).

(The statement described by the witness was thereupon received in evidence as Exhibit A-258.)

[fol. 1344] In describing the divisions on live stock as arbitrary divisions I used the word "arbitraries" meaning that it is not on a percentage basis. We call that arbitrary divisions. We do not mean they are arbitrarily set or anything like that. They are just divisions in cents per hundred pounds.

Exhibit A-259 is rates and divisions on sulphur from Freeport, Texas to Appleton, Wisconsin. This destination was selected for the reason that this commodity is used in the manufacture of paper and we found that there was a steady movement to Appleton.

The statement described by the witness was thereupon offered in evidence as Exhibit A-259 (Tr. 5787).

(The statement described by the witness was thereupon received in evidence as Exhibit A-259).

A statement of rates and divisions on agricultural implements from Chicago to Dallas, Houston and Fort Worth via Kansas City and East St. Louis.

The statement described by the witness was thereupon offered in evidence as exhibit A-260 (Tr. 5788).

(The statement described by the witness was thereupon received in evidence as Exhibit A-260.)

The Witness (continuing): This is a statement of rates and divisions on iron and steel articles from Chicago to Dallas, Houston and Fort Worth, via Kansas City and East St. Louis.

The statement described by the witness was thereupon offered in evidence as Exhibit A-261 (Tr. 5788).

(The statement described by the witness was thereupon received in evidence as Exhibit A-261.)

[fol. 1345] The Witness (continuing): The next exhibit is a statement of rates and divisions on molasses from New Iberia, Louisiana, to Chicago, Illinois, and Clinton, Iowa (Tr. 5788).

There are no established divisions from New Iberia to Chicago via East St. Louis and we have used the same basis the Southwestern Lines use on this traffic, that is, Texas percents.

The statement described by the witness was thereupon offered in evidence as Exhibit A-262 (Tr. 5789).

(The statement described by the witness was thereupon received in evidence as Exhibit A-262.)

[fol. 1346] The Witness (continuing): Exhibit No. 263 is a statement of rates and divisions on oyster shells from Berwick, Louisiana to Muscatine, Iowa, and St. Paul, Minnesota via East St. Louis and Kansas City. Via Kansas City; this division being based on Texas percents, that is, 23½ per cent, south 29.4 cents. As previously stated the application of Texas percents to these Louisiana rates is not a matter of agreement between the Northern and Southwestern Lines. However, this basis is used for the reason that the Southwestern Lines will not agree to any other basis. Via East St. Louis; the Southwestern Lines have petitioned the Central Freight Association Lines to publish through rates to points in C. F. A. territory and the Southwestern Lines have agreed to accept a fixed proportion to East St. Louis of 20½ cents, which will be accepted by them as a constant proportion to East St. Louis regardless of the point of destination. While the divisions they contend are proper to Western Trunk Line Territory, at the same time they are exceeding the 20½ cents proportion by 10.9 cents to Muscatine and 12.1 cents to St. Paul. If this same proportion was accepted by the Southwestern Lines on traffic to points in Western Trunk Line territory

the result would be that the Western Trunk Lines' earnings would be very materially increased.

The statement described by the witness was thereupon offered in evidence as Exhibit A-263 (Tr. 5789-5790).

(The statement described by the witness was thereupon received in evidence as Exhibit A-263.)

[fol. 1347] I also got up a statement with respect to the L. C. L. traffic handled by the Wabash from Chicago to East St. Louis. We handle a considerable volume of that traffic. In Exhibit A-264 is an analysis of a day's merchandise cars (Tr. 5790).

(Here followed a discussion as to whether or not this rebuttal testimony. Attorney Towner said that it was rebuttal of testimony of Witnesses Stanage and Sickel who testified at some length with respect to the cost they incurred in handling less than carload traffic (Tr. 5790-5791).

The Witness (continuing): This is an analysis of the merchandise out of Chicago for the day of November 3rd, 1925. Some of these cars did not run till the next day, so the dates show the second or third. This merchandise is assembled through various agencies as shown on the top sheet. Some of it comes through the Chicago Warehouse & Terminal Company; other through trap cars. We found out the weight, the total weight of the trap cars and the total expense to get into our depot and to divide the weight into the total expense to get the average cost in cents per 100 pounds, and we have shown in connection with each of these various agencies the net amount in cents per 100 pounds that we paid on this merchandise, and against that we charged only that proportion that went to the Southwest in working out these figures shown on the succeeding sheets (Tr. 5791-5792).

The first car shown on the first sheet shows that we paid a freight rate of 9 cents per 100 weight to the Chicago Warehouse & Terminal Company for underground transfer. The next is a flat rate on the trap car from the Chicago Junction Railway. We paid them 8 cents. The next is a trap car and switching by the Manufacturers Junction Railway, B. & O. C. T. and C. R. & I. The Manufacturers

get an arbitrary of 8 cents, the B. & O. C. T. charge of $4.95 per car and the C. R. & I. a charge of $4.05 per car, [fol. 1348] making the total $9. There was contained in the car 22,748 pounds of merchandise, which equaled 4 cents that we paid to the B. & O. C. T. and the C. R. & I. The total absorption of that car is 12 cents per hundred pounds. That same plan was followed through the rest of the exhibit (Tr. 5792-5793).

Referring to Sheet 2 at the bottom, I have shown the absorptions and the net revenue remaining. That explanation will apply to the remaining sheets of the exhibit. I might also add that we have shown the total amount of merchandise that was put in that car. Some of it came from beyond Chicago and where it came from a point in Western Trunk Line territory we have shown in the column of earnings the proportion accruing to East St. Louis as well as on the Chicago business (Tr. 5793).

We have shown on the bottom there that, for example, on that first sheet, that it has reduced the net percentage proportion of the lines north of East St. Louis to 15.5 per cent, instead of 30, which would be the normal per cent to Texas points, and that the amount paid, $11.91 was 24 per cent of our revenue. The same explanation applies to every sheet. In the last column where I show the word "proportion" that is in dollars and cents per shipment. The $11 on that shipment is the proportion of the lines south.

The statement described by the witness was thereupon offered in evidence as Exhibit A-264 (Tr. 5794).

(The statement described by the witness was thereupon received in evidence as Exhibit A-264.)

[fol. 1349] I think all of this goes down via the Cotton Belt or the Missouri Pacific and they do not cross the river at St. Louis. They take it down over the bridge at Thebes (Tr. 5795).

Cross-examination:

This is carload traffic. It runs through as a carload from Chicago to Texarkana. The next one breaks at Monroe.

That is shown on each sheet, where these cars are loaded to. They are through cars loaded from Chicago to these points. A lot of our cars would run across the river at St. Louis; the M.-K-T for example, because we do not load any through cars for the M-K-T. The same would be true of the C. & E. I. and the C. & A. on anything in connection with the road that does not go down the other way (Tr. 5795).

Other cars delivered to either the Missouri Pacific or the Cotton Belt at East St. Louis, the receiving line absorbs the switching charge at East St. Louis. Those amounts are not deducted from the revenue of the Southwestern Lines. This statement was just made to show what the actual cost was to get this stuff to our freight house. That is traffic handled through these agencies.

Mr. Towner: The deductions of the Southwestern Lines have already been shown, Mr. Burg.

Mr. Burg: Yes, but not in these exhibits.

Mr. Towner: No, not in this exhibit.

Exam. Disque: When the Southwestern Lines made their showing they did not show these deductions, did they?

Mr. Towner: No, if they had, we would not be showing them (Tr. 5795-5796).

Exhibit A-259 is one relating to sulphur. One of the purposes of the exhibit is to show the percentage relationship of the divisions received by the lines north and south of [fol. 1350] the junction respectively on the local rates. I do not know of the sulphur originating at Kansas City and moving to Appleton, Wisconsin. It does move in large quantities from Texas to Kansas City. The rate from Texas to Kansas City is 32.5 cents for 816 miles and from Kansas City to Appleton for 612 miles is 33½ cents. I could not say whether the rate level generally in the Southwestern Territory is higher than Western Trunk Line Territory. I don't know about that (Tr. 5796-5797).

The rate from Texas to Kansas City is relatively lower than the rate from Kansas City to the Western Trunk Line Territory. That is shown right on the statement. There is not such a big difference, only a cent a hundred and 200 miles difference and a higher rate level in the Southwest.

I don't know whether the rate from Kansas City to Appleton is a class rate. The other exhibits showing commodity rates are based on the same composition, that is, they are just a statement of what the divisions would be on a rate prorate. That is the relationship of the divisions to the rate prorate (Tr. 5798).

The local rates shown on these commodity statements north and south of the junctions are the rates that would actually move the traffic if there were no through rates. We use whatever the rate is; if there is a commodity rate we use it, and if there is a class rate we use it. I don't know whether it is a class or a commodity rate. The commodities that move northbound in the Southwest would move through the Kansas City gateway, no doubt. I don't know whether they move there locally in most cases. We do not run to the Southwest from Kansas City; therefore, I could not say what stuff does move. I have no opinion or knowledge as to whether or not there was ever a shipment of crude sulphur locally between Appleton, Wisconsin, and either Kansas City or East St. Louis. I would not imagine [fol. 1351] that there would be any movement, but I don't know. That is very likely based on the fact that there is no production of crude sulphur in the vicinity of either of those cities. If I were asked offhand, I would say that there was no movement, but I have no exact knowledge of it (Tr. 5798-5799-5800).

Referring to Exhibit A-258, relating to cotton seed products, cake, meal and hulls, I could not state whether there is any movement from either Kansas City or St. Louis to Chicago locally of those products. There is no cotton produced at St. Louis. I don't know about Kansas City.

Mr. Muckley: I will tell you there is not.

The Witness (continuing): I don't imagine there is any movement of cotton seed products or cotton products locally to Chicago from those points. The local rate that I have used in that rate prorate must be a commodity rate because I note the tariff naming the class rates between East St. Louis and Chicago is not on this sheet (Tr. 5800-5801).

Sometimes cotton seed takes grain products rates in some tariffs. I presume there would be grain products

rates under which there is no movement of cotton seed, although they have rates and they are prepared to handle if there is any offered. I have heard of paper rates before.

I have only the information which I gathered when helping work up these figures as to the nature of the Chicago Warehouse & Terminal Company or Terminal Company of Chicago. I know that the Merchants Lighterage Company in Chicago is these boats that run around here. I know generally what is involved in this trap car service. I don't know anything about why these methods of getting less than carload freight to or from our freight station were established. I just know that they are in effect. I have no knowledge as to whether or not the carriers in Chicago [fol. 1352] could take their L. C. L. freight and deliver all of it at their local stations if they did not want to use any of these agencies. All I know is that this system is used today. I don't know why it is used. I do not have anything to do or ever see any correspondence relating to why these were established. All I know is that we found these payments were being made daily (Tr. 5802-5803).

In my Exhibit A-252 I made a class prorate using on the one hand in Western Trunk Line Territory certain rates proposed in Ex Parte 87 and on the other hand certain rates proposed by an Examiner in Docket 13535, the General Southwestern Rate Case. I have no knowledge as to the nature of the proposals in Ex Parte 87 as to the new class rates except we got these proposed rates out of the statements and one thing and another that were prepared. I do not know whether they were proposed by the carriers or the Commission. I have no knowledge about it at all. I haven't any knowledge of the General Southwestern Rate Case or the rates proposed by the Examiner in that case (Tr. 5803-5804).

I don't know as to whether the class rates proposed in the General Southwestern Rate Case are in effect commodity rates to take the place of a large number of commodity rates and actually move heavy traffic. If those rates were published as class rates and you used a prorate you would use the rates defined as class rates whether they were used to move commodities or something else. You could not tell by looking at the tariff. You would simply

use whatever the rate was. Referring to the statement used here the effect would be to make a rate prorate using the class rates versus the commodity rates, unless the class rates north were established similarly. I know so little about that rate situation that I have no opinion to express on it. If the Commission knows about it it is unnecessary to ask [fol. 1353] me to state it. All I know is the rates were furnished to me on these statements and I know nothing about why they were proposed or whether they were going into effect. I just used those figures we found in those exhibits. I would have analyzed the rates on both sides before I would be able to give an opinion. We make a rate prorate using class rates versus commodity rates if we have no other basis. Sometimes that is done. It would not be fair in making divisions (Tr. 5804-5805-5806).

Attorney Muckley here asked the witness whether any machinery moves from Waterloo, Iowa, to Texas. The Examiner said machinery was taken out of the exhibit and Attorney Towner stated that the tonnage statements would show whether there was a movement (Tr. 5806-5807).

The following is quoted verbatim from the transcript of testimony:

Exam. Disque: Mr. Outlaw, am I to understand from your testimony about the Chicago Terminal Lines that the Southwestern Lines who are performing those services are not compelled to perform them.

Mr. Outlaw: No, Mr. Examiner, I suppose they do. We are not complaining of it or chargin*f* it as any ground for increased divisions here. These questions might be largely legal, but everybody knows trap car service and all of these extra delivery services are things they do not have to do. It is to build up business and for competitive reasons.

Exam. Disque: Something like the tap lines.

Mr. Outlaw: Yes.

Mr. Muckley: I don't agree with that. I don't think the situation is similar to the tap lines at all. There is a transportation service there that it is not necessary to render (Tr. 5707-5708).

[fol. 1354] S. H. GILLETTE was thereupon recalled as a witness and testified as follows:

Direct examination:

My testimony deals with the territory north of Chicago from which originally arbitraries were applied over the rate structure from Chicago and Milwaukee, comprising the so-called Milwaukee Group, Fox River Group and territory in Wisconsin and Michigan north thereof. The present division so far as my knowledge goes was fixed 40 or 35 years ago and at a time when there were substantial arbitraries over the Chicago-Milwaukee rate structures. The divisions as fixed at that time accord the lines south of Missouri River gateways and St. Louis, Chicago or Milwaukee revenue, namely: Milwaukee revenue in connection with Texas traffic and Chicago revenue in connection with Oklahoma, Arkansas, etc. (Tr. 5808).

Subsequently radical changes have been made in the rate adjustment between this territory and the Southwest resulting in a very material reduction in the arbitraries and in many cases the arbitraries have been wiped out entirely from certain Fox River territory on various commodities. During all this readjustment in rate structures, no change has been made in the original division basis under which the lines south of Missouri River and St. Louis gateways still receive their established percents of whatever rates are in effect from Milwaukee and Chicago as the case may be. I have three exhibits which I would like to introduce at this time consisting of 12, 6 and 5 pages respectively, covering the most important commodities which move in volume and which we believe are typical of the general division situation. Page 1 of Exhibit No. A-265 covers cheese from Green Bay to Texas common points, routed via East St. Louis. Cheese is one of the heaviest commodities moving from Wisconsin to Southwestern territory. Wisconsin [fol. 1355] ranks first in the cheese production of all states in the union. This comprises from 75 to 80 per cent of all cheese produced in the United States (Tr. 5808-5809).

The divisions on cheese clearly demonstrate the unfairness of some of the arbitrary provisions in a divisional structure between the Western Trunk Lines and the Southwestern Lines. The Southwestern Lines require that the

earnings south of St. Louis shall be not less than the earnings south of St. Louis on Milwaukee Traffic. Pages 1 and 2 of this exhibit have been prepared to illustrate the effect of this provision. One on cheese from Green Bay, which is a large concentrating point, and the one from Gillett, Wisconsin, which is representative of a large manufacturing district. The present rate on cheese from Green Bay to Texas common points is $1.55. There is no commodity rate in effect from Milwaukee. The class rate applicable on cheese from Milwaukee is $1.76½. The divisions on Milwaukee allow the lines north of St. Louis 32 per cent and south of St. Louis 68 per cent. I mean East St. Louis. That should read East St. Louis (Tr. 5809-5810).

68 per cent of the through Milwaukee rate of $1.76½ results in earnings south of St. Louis of $1.20 which becomes a minimum insofar as the lines south of St. Louis are concerned on any traffic originating in Wisconsin north of Milwaukee. Deducting $1.20 from the through rate from Green Bay of $1.55 there is left to the lines north of St. Louis but 35 cents, where as had the shipment originated at Milwaukee the earnings north of St. Louis would have been 56½ cents. In my opinion this is simply a trick division basis. That should be East St. Louis instead of St. Louis. What I particularly desire to call to your attention in connection with this exhibit is the fact that the lines south of St. Louis are not basing their earnings on the rate which is moving the traffic but their earnings are based on a class [fol. 1356] rate of 21½ cents higher than the commodity rate which is actually applied to the traffic. Any provision that results in a group of lines taking for their earnings a percentage of a rate different from that on which the business is handled, is obviously unfair (Tr. 5811).

In this particular illustration the lines north of St. Louis are performing 112 miles more service than if the business had actually originated at Milwaukee but are earning 21½ cents less for the additional service from Green Bay than they would earn had the business originated at Milwaukee, thereby requiring a lesser service to the extent of 113 miles. I am not positive, but I think the through rates are Commission made rates. I do not remember whether before

the rates were reduced the rates from Milwaukee were higher than the rates from the cheese producing points.

Mr. Towner: Mr. Gray says the answer to your inquiry is yes. Do you want that on the record?

Mr. Burg: They were higher?

Mr. Towner: Yes, he said they were higher.

The Witness (continuing): This anomaly results from the requirement of the lines south of St. Louis that they shall be allowed divisions out of a rate other than that on which the traffic is actually moving (Tr. 5811-5812).

The same situation that has been covered from Green Bay via St. Louis is also shown in connection with cheese from Gillette, Wisconsin, to Texas common points, via Kansas City, as shown on page 3 of this exhibit. Here the traffic is moving under a commodity rate of $1.60, whereas the basis from Milwaukee is the class rate of $1.76½. The lines south of Kansas City demand and take their percentage of the Milwaukee rate of $1.23½. This, notwtihstanding the fact that the class rate from Milwaukee has no bearing whatsoever on the movement of the traffic. In this in- [fol. 1357] stance the lines north of Kansas City perform 170 miles more service than had the business originated at Milwaukee, but for that 170 miles additional service they receive 16½ cents less per 100 pounds than if the business had originated locally at Milwaukee. These are the regularly established standard divisions, the merchandise divisions. It does not require much proof to establish the premise that the lines north of Kansas City are entitled for the greater service from the producing territory north of Milwaukee, to more revenue than they would receive on business from Milwaukee and yet under this arbitrary demand of the Southwestern Lines this and the previous exhibit on shipments from Green Bay clearly demonstrates that the northern lines for the greater haul receive less money than they do for the shorter haul (Tr. 5813-5814).

As the absolute minimum the northern lines should not receive less than the Milwaukee division of the rate on which the business is moving. This is unfair to the northern lines as it gives no recognition of the additional service north of Milwaukee, but even with this provision in effect in the case of the shipment from Gillett, the northern lines would

have earned 11½ cents more north of Kansas City than accrued to them under this arbitrary requirement of the Southwestern carriers.

In order that this division basis may be verified, reference is given to Southwestern Lines Division Sheet 40, Page 34, Item 320. On page 3, detailed information is given with respect to the division of rates on newsprint paper from Appleton to Texas common points, which carriers an arbitrary over Milwaukee. The same in connection with newsprint paper from Quinnesec, Michigan as shown on page 4, and agricultural implements shown on page 5 from Fond du Lac, Wisconsin, to Texas common points. Also potatoes from Escanaba to Texas Common points on page 6, refrigerators from Rhinelander, Wiscon- [fol. 1358] sin, to Texas common points on page 7, agricultural implements from Oshkosh to Texas common points on page 8, matches from Oshkosh to Texas common points on Page 9. The latter commodities carry varying arbitraries over Milwaukee rates (Tr. 5814-5815).

On page 10, I have shown the divisions on automobiles, which comprises a very substantial movement to Texas common points, showing the divisions east and west of Kansas City. It will be noted that the lines north of Kansas City receive 30 per cent of the through rate but perform 42.3 per cent of the service and receive 63½ per cent of the local rate as compared with the Southwestern Lines revenue of 92.1 per cent of the local rate west of Kansas City. Page 11, automobiles from Milwaukee give practically the same result with the exception of the increased service east of Kansas City which is 44 per cent as compared with 30 per cent of the revenue. Page 12, newsprint pap*g*e, Rhinelander, Wisconsin, to Texas common points, via Kansas City. For an additional service representing 231 miles the arbitrary is but 4 cents over the through rate from Milwaukee to Texas common points. I might add that these paper rates were all fixed by the Commission. The Nash and Ford automobile companies are at Milwaukee (Tr. 5815).

This represents an increase of 18.8 per cent in the revenue over what the lines north of Kansas City receive on traffic from Milwaukee, while our service over Milwaukee is increased 45 per cent. Further, the lines north of Kansas City receive 79 per cent of the local rate while the lines

south of Kansas City receive 95.6 per cent of the local rate, their service being constant on traffic both from Milwaukee and Rhinelander.

The statement described by the witness was thereupon offered in evidence as Exhibit A-265 (Tr. 5815-5816).

[fol. 1359] (The statement described by the witness was thereupon received in evidence as Exhibit A-265.)

[fol. 1360] My Exhibit No. A-266 consisting of 6 pages, covers rates and divisions on cheese, newsprint paper and canned goods from Fox River territory to Oklahoma and Arkansas. The division basis on Oklahoma and Arkansas provides that the lines south of St. Louis and Missouri River gateways receive their established percentage of the Chicago rate. Particular attention is called to Page 2 of this exhibit covering the rate and divisions on newsprint paper from Appleton, Wisconsin to Tulsa, Oklahoma via Kansas City. It will be noted that the Chicago rate applies from Appleton out of which the lines north of Kansas City receive 44 percent both to Chicago and Appleton, and receive no additional revenue whatever for the additional haul (Tr. 5816).

In other words, the lines north of Kansas City perform 70.4 per cent of the service and receive 44 per cent of the rate while the lines south of Kansas City perform 29.6 per cent of the service and receive 56 per cent of the revenue. It will be noted that the service of the lines east of Kansas City is increased 35.4 per cent over Chicago with no additional revenue whatever. Identically the same situation exists in connection with canned goods from Sheboygan, Wisconsin to Tulsa, Oklahoma as shown on page 2.

The statement described by the witness was thereupon offered in evidence as Exhibit A-266 (Tr. 5817).

(The statement described by the witness was thereupon received in evidence as Exhibit A-266.)

[fol. 1361] My Exhibit No. A-267 consists of 5 pages and covers rates and divisions on petroleum oil, hides, cotton linters and peaches, from Texas common points, to Fox River territory, the stations named on that exhibit being located in Fox River territory. Particular attention is called to the fact that the lines south of Kansas City receive 99.7 per cent of the local rate and the lines north of Kansas

City receive 42.4 per cent of the local rate. The lines from Kansas City to Green Bay as an illustration, perform 54.8 per cent of the service and receive 37.5 per cent of the revenue (Tr. 5817).

Particular attention is called to page 3, rate and divisions on hides from Texas common points to Sheboygan, Wisconsin via East St. Louis, in connection with which there is a substantial movement. As an illustration, we handled into Sheboygan 100 carloads of green hides from Texas common points during the month of June 1924. Here again the Milwaukee rate is extended to Sheboygan with no additional compensation to the lines north of East St. Louis for the additional service performed, the lines north of East St. Louis receiving 22 per cent of the rate and performing 34.1 per cent of the service. In other words, the haul to Sheboygan is increased 11½ per cent over Milwaukee with no increase in revenue. I think the illustrations which I have given in the three exhibits described in the foregoing, are typical of the general division situation as it exists today between Southwestern territory and our so-called Fox River Group and territory north thereof.

The statement described by the witness was thereupon offered in evidence as Exhibit A-267 (Tr. 5818).

(The statement described by the witness was thereupon received in evidence as Exhibit A-267.)

[fol. 1362] As to divisions up in the territory north of Chicago I do not think that we are entitled to the same basis relatively as applies to Springfield and Des Moines and Chicago. I think there ought to be a line of percentages arranged from that territory to Texas and not have the division basis provided that the Southwestern Lines are to receive a certain amount of some base point rate, because the base point rate as a rule does not change as often as it does in these territories that carry these arbitraries. Now, I am speaking here to the general division basis. We have a special division basis through our Iowa junctions and Kansas City, in connection only with certain routes which is 40.5 per cent of the Chicago-Milwaukee-Texas common point rates north of Kansas City, 40.5 per cent, but that generally does not apply in connection with all lines. That seems to be a very fair basis of divisions through the Kansas City gateway (Tr. 5819).

Cross-examination:

We have no compound divisions that I know of. Take through the Chicago gateway, we had a special division basis originally with one or two lines.

It was supposed to allow the lines north of Chicago 15 per cent of the through rate. That is the Milwaukee rate plus any arbitraries over. That was afterwards extended to practically all lines through the East St. Louis gateway. But the division sheet rates the Southwestern Lines will receive will be 85 per cent of the Milwaukee rate south of Chicago, so that if you get a higher rate from Milwaukee to this territory than you have got from the territory north, then we only get 15 per cent. They get 85 per cent of that higher rate from Milwaukee. We do not get but 15 per cent of the rate that moves the traffic (Tr. 5819-5820).

[fol. 1363] By Exam. Disque:

Q. Well, everybody looks on Illinois as an eastern state and a good deal of traffic moves up through East St. Louis in Illinois to Chicago. Your traffic will move up through Kansas City and Omaha and up into northern Wisconsin. Now, do you contend that you are entitled to the same basis of division as applies to and from Chicago, mile for mile? Do you think we should average all of the Western Trunk Line territory and do you think we should fix different bases of divisions in various parts of Western Trunk Line territory?

A. I think we should group this Western Trunk Line territory.

The Witness (continuing): I think we should put the divisions on some bases reflecting the original basis which carried a substantial set of arbitraries over the Milwaukee rates. We have an arbitrary north of Chicago or north of Milwaukee and divide the balance of the Milwaukee percents. That is the principle, but in working it out I would throw it into per cents in establishing these groups north of Chicago, so that when the rates change as to base points they automatically change to arbitrary territory.

What I mean is: Take the bases originally where there was a substantial set of arbitraries over the Milwaukee rate and get the percentage divisions that would apply to

the rates at that tme and use that as the yard stick at that time by providing established percents from all that territory to be fixed and apply to whatever adjustment of rates is to be made. That is the only proper way, in my opinion, to adjust these divisions, because they are continully being changed, either from the arbitrary territory or from the base point, Chicago or Milwaukee, which should necessitate a change simultaneously in your division structure, either one side or the other (Tr. 5820-5821).

[fol. 1364] I would take the so-called Milwaukee group in the first place. Not necessarily Milwaukee rates to any particular territory, but what is known as the Milwaukee group. That group runs all the way from ten miles, I should say to 20 miles north of Milwaukee. Then take an imaginary line just north of Milwaukee right across and north of Madison to the Mississippi River. Then start in just north of Green Bay. Now, that is the southern boundary of what is called the Fox River group. I think it would be a good idea for us to all work out the groups and tell the Commission to fill in the figures and submit some kind of a concrete proposition, if we could reach an agreement. I don't know whether it could be done or not. But think it would be a solution of this difficulty (Tr. 5822).

I don't say that there should be special divisions on commodities. It would be pretty hard to say about that, to establish a percentage basis to apply on everything. It would depend entirely on the construction of your rates. There are all sorts of complications and angles to these rate structures, and often one line or set of lines at one side of the breaking point is entitled to a greater revenue than they would be under ordinary conditions or under certain staple class rates, you might say. I don't know what those conditions are that would entitle the one set of lines to more revenue. I would have to have the cases before me to know. I can not make a general statement on that proposition. I can not mention any condition that would entitle one line to more revenue than another without knowing the varying conditions which would develop in connection with the adjustment of commodity rates (Tr. 5822-5823-5824).

By Mr. Muckley:

Q. Did you hear Mr. Schmidt testify?
A. Only the beginning of his testimony.

Q. Did you hear him talking about compounding divisions over Thebes and St. Louis?

[fol. 1365] A. I don't think so. I don't think I was here at the time.

Q. Was he speaking for you?

A. I don't know.

Mr. Towner: I object to that. It does not make any difference who you are speaking for.

Mr. Muckley: Oh, it might.

Mr. Towner: That is an unfair question, Mr. Muckley (Tr. 5824).

It depends upon what the compounding division is whether or not I think it is unfair. I can not say off hand. There is no compounding of divisions for our road unless there is some additional service involved.

Referring to the divisions on newsprint paper from Appleton to Tulsa on page 2 of Exhibit A-266 and from Appleton to Texas common points on page 3 of exhibit A-265. It does not look out of line that we should get 44 per cent on the Oklahoma business and 32 per cent on the Texas business. As a rule you have got a much shorter haul to Oklahoma than you have to Texas. It depends altogether on the spread of the rates. What I am doing is setting these divisions against the actual results of these rates as they exist today. I think we should get a lower percentage of the higher rates when it develops that the lines north of Kansas City receive materially less revenue in proportion to their local structure than the Southwestern Lines do. I think it is proper that a line for the same service should get a lower percentage out of a higher rate, as shown on these two exhibits (Tr. 5826-5826).

While exhibit A-263, pages 2, 3, 4, 5 and 6, showing rates and divisions on various commodities to Texas points show a percent north of Kansas City of 30 per cent; if any of that traffic originating or terminating on our line were interchanged at Des Mines, Iowa, the total allowance north of Kansas City is 40.5 per cent.

[fol. 1366] The showings on those pages are not in error to the extent of all that business. Those exhibits are assumed to portray the general division bases. This division of 40.5 per cent is a specific division accorded by one

line north of Kansas City when they get the haul south and in connection with through lines south of Kansas City. With any other routes, this is the division basis right here (Tr. 5827).

On southbound business a considerable portion of the business of our line is interchanged at Des Moines. We only get 30 per cent to Des Moines when it goes via certain routes. I would not say that that is a substantial part of our business beyond Kansas City. My statement refers particularly to the interchange at Des Moines. When you get to Kansas City, there is not the same substantial movement of traffic that travels over these particular lines we have got this division basis on. I would say off hand the preponderance of traffic was the other way when you reach Kansas City. So, therefore, that division basis of 30 per cent to Des Moines would not apply. Of all the business we originate and deliver on the Kansas City lines, there is a substantial portion of that business interchanged at Des Moines. I would not say the 40.5 per cent basis would apply to a substantial portion. I would not know the exact percentage. There is a substantial interchange at Des Moines, but that same relation does not carry on beyond Kansas City. The lines north of Kansas City receive 40.5 percent instead of 30 percent as shown on the exhibit. Only in connection with Chicago, Rock Island and the Chicago Great Western. I don't know what lines north of Des Moines get this basis other than the Chicago North Western. I don't know whether the Milwaukee still have it or not (Tr. 5828-5829).

[fol. 1367] On traffic which we interchange at Chicago, destined to and from Texas common points, the Chicago North Western gets 15 per cent of the Milwaukee rate for service north of Chicago, plus an arbitrary. Here is the catch on that. The division sheet reads that the Southwestern Lines will receive 85 per cent of the Milwaukee rate. The Southwestern Lines get theirs first. I don't know how the Milwaukee rate division is handled with other lines. Our division sheet reads 85 per cent south or west of Chicago of the Milwaukee rate. I don't know how it is handled. According to our Accounting Department, the Southwestern Lines are getting 85 per cent of the Milwaukee rate. That is my understanding from our auditors (Tr. 5829-30).

Here followed a discussion as to whether the witness's last statement was correct. Attorney Outlaw referred to Mr. Balch's exhibits and Attorney Towner replied that he thought everything that had been referred to was in the exhibits. There followed a discussion off the record which was followed by the following:

By Mr. Burg:

Q. What were the two lines south of Kansas City?
A. M-K-T and Kansas City Southern for their own lines and connections.
Q. Did the Frisco participate?
A. No, sir.
Q. Sure about that?
A. Not that I know of (Tr. 5830-5831).

In Exhibit A-265, in order to determine the percentage of service performed by the lines north of Kansas City and the lines south of Kansas City, I have used the average mileage to Kansas City from Texas common points and the short line mileage from Kansas City to Gillette and Milwaukee, Wisconsin. That was my instructions, to use the short line mileage north of Kansas City and the mileages south of Kansas City that are shown in these previous ex-[fol. 1368] hibits which I understand were the average of the—I received those instructions from Mr. Towner (Tr. 5831-5832).

Referring to the rate on cheese from Gillette, Wisconsin, to Texas common points of $1.60, shown on page 2 of Exhibit A-265, I can not say off hand without referring to the tariff, whether or not that rate applies from a group or from a single point, Gillette, but I am inclined to think that there are some groups in there. I am not positive. I don't know whether that is a large group or a small group. It was my instruction in getting up the exhibit that a representative point as to mileage be chosen. I think Gillette is representative as to mileage. I don't know positively. I don't know whether there is a group or not. Taking Milwaukee, Wisconsin, there is a small group in there. I do not know without getting the tariff. I can not define those groups. I think that my showing as to the percentage of service performed by the Western Trunk Lines in Exhibit A-265 is proper and representative (Tr. 5832-5833).

It frequently occurs that the rate from Milwaukee is higher than from points beyond. I picked out here commodities that moved in volume. I do not know in what percentage of the cases the rate from Milwaukee is higher than from these producing points beyond. I can not off hand name one commodity other than cheese on which the rate from Milwaukee is higher than from a further distant point to Texas common points or Oklahoma. I don't know whether I can think of any (Tr. 5834).

I don't know whether or not it is a fact that the question of dividing the rate on cheese shown on Exhibit A-265 was placed with the Southwestern Freight Bureau for consideration. We have got so many suggestions on that docket with the Southwestern lines that I could not tell you whether it is on the docket or not. I think the rate from Green Bay was fixed by the Commission.

(Attorney Towner here said that there is no cheese commodity rate from Milwaukee.)

[fol. 1369] Apparently nothing but the class rates apply on cheese from Milwaukee (Tr. 5834-5835).

I will try to get information as to whether I can find any rates on any moving commodity in any volume from Milwaukee to Texas common points or Oklahoma that is higher than a rate from a more distant point in Wisconsin.

Attorney Towner here said that if the witness would look this up he would advise everybody by letter, giving a list of them (Tr. 5835-6).

J. A. Behrle was recalled as a witness and testified as follows:

Direct examination:

In Mr. Parson's testimony yesterday reference was made to certain corrections in exhibit A-60, and in order that the record may be straight on this point I would like to introduce an exhibit correcting the tonnage and revenue figures appearing on page 7 of Exhibit A 60 and having reference to the movement of oil from group B as set forth in the second group on that page (Tr. 5836).

Oil group B is in Oklahoma.

(The statement described by the witness was thereupon received in evidence as amendment to exhibit A 60.)
[fol. 1370] Beginning with page 5568 of the transcript there appears a discussion of the divisions on lumber via Kansas City. The first exhibit, number A-232 is a comparison of the divisions on lumber with merchandise percentages. There also appears on this exhibit a column head, "Average miles to Kansas City, Mo." below which are shown the figures "808". According to the testimony this is the average distance to Kansas City. Exhibit number A-232 does not show the points of origin, but refers to Exhibit number A-233 and by reference to the latter it will be found that the average distance from all points shown in this exhibit is 808 miles.

It should be clearly shown of record that this is the average of all mileages shown on Exhibit Number A-233 and that it is neither the short line mileage nor the weighted mileage. The short line mileages in exhibit number A-233 average 706.9 miles. The short line distance in connection with the route shown via the Kansas City Southern Railway averages 694 miles. These facts are important because exhibit A-232 actually makes comparison of mileages via all routes from the points shown to Kansas City with the actual short line distances from Kansas City (Tr. 5837-5838).

Many of the routes shown in exhibit number A-233 are indirect. The most pronounced case appears on page 3 where it is shown that the short-line distance from Colfax, Louisiana, is 657 miles while the long line is 1115 miles or 458 miles in excess of the short line mileage. Numerous other illustrations of round-about routes could be cited. As for instance, the mileages shown on page 2 from Vidalia to Kansas City which are short line 734, long line 1082 and [fol. 1371] on page 7 from Houghton, Louisiana to Kansas City, short line 574, long line 1002. On sheet 2 of exhibit number A-232 is shown a mileage of 451 miles from Kansas City to Chicago. This, it should be borne in mind, is the distance via the Atchison, Topeka & Santa Fe Railway. According to our June, 1924 tonnage figures presented in this case, the average mileage Kansas City to Chicago was 496 miles as against 661 miles south of Kansas City.

Southwestern Lines' exhibit number A-122 is a statement of the forest products originating on short-lines connecting with Southwestern lines and moving to and through Western Trunk Lines territory. In showing the car miles, ton miles and the average haul, revenue per ton mile and revenue per car mile, the mileage and revenue of the initial lines has been eliminated. Therefore, this statment is complete only in as far as it shows the revenue of the Western Trunk Lines, the Southwestern Lines and their connections. Nowhere in this statement is there shown the haul of the short lines and it, therefore, does not portray a true picture of the situation. Presumably this exhibit is intended to convey the inference that the Western Trunk Lines are receiving considerably in excess of a mileage prorate (Tr. 5838-5839).

To show the other side of the picture, utilizing the material on hand, we have prepared a statement in which we have made a division of revenue north and south of Kansas City using the ton mileage shown in exhibit number A-122. The net result of this computation is that for an average of 381 miles north of Kansas City the Western Trunk Lines receive 6.73 mills per ton mile while for an average haul of 699 miles south of Kansas City the Southwestern lines receive an earning of 8.32 mills per ton mile. In other words, the ton mile earnings are approximately the same for both Western Trunk and Southwestern lines, but the average haul of the Southwestern lines is 183 per cent of that of the Western Trunk Lines (Tr. 5839).

[fol. 1372] I am talking about all of our lumber via Kansas City. I am familiar with the Southwestern blanket. Sometimes the rate for lumber is blanketed at the destination end. The Chicago rates sometimes apply for points other than Chicago and St. Paul rates sometimes apply for points other than St. Paul. As to whether rates are blanketed or not might depend a lot on the definition of the term "blanket". I have not compared the blankets in the north with those in the south to tell whether those in the north are smaller. Without comparing these blankets I could not tell whether they are larger or as large as the Southwestern blanket (Tr. 5840-5841).

The statement heretofore described by the witness was thereupon offered in evidence as Exhibit A-268 (Tr. 5842).

(The Exhibit described by the witness was thereupon received in evidence as Exhibit A-268.)

[fol. 1373] Where the distances are approximately equal as in the case of lumber from Oklahoma where the Western Trunk Line mileage is 401 miles and the Southwestern mileage is 398 miles, the Western Trunk Lines receive 6.31 mills per ton mile while the Southwestern lines receive 10.08 mills per ton mile. In other words, where the length of haul is the same the earnings of the Southwestern lines exceed those of the Western Trunk Lines by 59.7 per cent. Lest it be stated that this is an improper showing because it does not include the mileage of the originating line, it may be stated that in the case of lumber originating at Oklahoma points on trunk lines destined to Illinois, Iowa, Missouri and Wisconsin where the average haul ot fhe Western Trunk Lines is 308 miles as against the average haul of 330 miles of Southwestern lines the ton mile earnings of Southwestern lines are 142.8 per cent of those of Western Trunk Lines. I direct attention to this situation in order that the long haul of the Southwestern lines be not overlooked. According to the Southwestern Lines' figures, a lot of lumber moves from Oklahoma (Tr. 5842-3).

In connection with the remarks appearing on page 5581 of the transcript, I wish to introduce an exhibit showing the number of tons of forest products handled by the Kansas City Southern Railway during the years 1916 to 1924 inclusive. There is also shown the percentage relation of forest products to total tonnage.

The statement described by the witness was thereupon offered in evidence as Exhibit A-269 (Tr. 5843).

(The statement described by the witness was thereupon received in evidence as Exhibit A-269.)

[fol. 1374] The witness, continuing: As the inference might be drawn from pages 5538 and 5539 of the transcript that the present divisions on oil from Mid-Continent fields via Kansas City to Western Trunk Line territory are not the result of arbitraries, I wish to place in the record copies of the official record of the Western Trunk Line committee bearing on this point. It will be noted that on October 5, 1915, the executive officers referred the question

of the division of rates established by the commission in the Mid-Continent cases, I. C. C. Docket 6129, 36 I. C. C. 109, to the Chairman of the Western Trunk Line Committee. On June 20, 1916, the question was again brought up and the Chairman instructed to confer with the absentees and announce the decision, if satisfactory to them. On July 24, 1916, another meeting was held at which the Chairman was instructed to arrange for a conference with the executive officers of the Kansas City Southern Railway, the Missouri-Kansas-Texas and the St. Louis Francisco Railway. On September 29, 1916 the committee consisting of the three lines mentioned, and the chairman, reported that with the transfer of Tulsa, West Tulsa and Sand Springs, Oklahoma from Group 1 to Group 2, the divisions proposed by the chairman were satisfactory. On October 6, 1916 the proposition was submitted for mail declaration and at meeting on November 16th, 1916 the question was referred to the chairman with authority to establish the divisions effective October 1, 1916 (Tr. 5844).

The Western Trunk Line record contains a letter from the M. K. T. Railway dated August 7, 1916 stating that at no time had that line objected to the basis which had been suggested, the position of the M. K. T. being that before the divisions became operative they should be ratified by the Western Trunk Line and Southwestern Tariff Committees. They advanced no objection to the divisions proposed by the Chairman and stated that they were willing to leave their interests in his hands. This record should show clearly that the division on oil from Mid-Continent fields [fol. 1375] via Kansas City to Western Trunk Line territory were specifically agreed to by all lines at interest.

The statement described by the witness was thereupon offered in evidence as Exhibit A-270 (Tr. 5845).

(The statement described by the witness was thereupon received in evidence as Exhibit A-270.)

[fol. 1376] The witness, continuing: The exhibits of Mr. S. G. Reed, numbers 186 to 195 inclusive, deal with the question of rate levels in Southwestern and Western Trunk Line territory. Exhibits numbers 186 to 189,—194 and 195 contain class rate comparisons. The rates both north and

south are now in the process of revision and in order that the record may be more complete on the question of class rate relationships, we have prepared an exhibit which we desire to introduce as A-271.

The following is quoted verbatim from the transcript of the testimony:

Mr. Muckley: What is this? Proposed rates?
Mr. Towner: Yes.
Mr. Muckley: Mr. Examiner, we object to this. I have not seen the exhibit yet, but it is a statement showing proposed rates. We object to it because the rates are not in effect. We do not know what rates will be in effect. You cannot put in evidence your rates that you go and pick out of the air some place. We want rates that are moving the traffic, or rates that have been fixed by the commission.

Here followed a lengthy discussion as to the admissibility of the statement referred to as Exhibit A-271, during the course of which Attorney Towner said that the purpose of the exhibit was to show that the atmosphere created by similar exhibits put in by Southwestern Lines was not correct. To which Attorney Muckley replied that the Southwestern Lines had not put in an exhibit similar to this one, and subsequently Attorney Muckley made the further objection to the exhibit offered, because it was a self serving statement to which Attorney Towner said—"that is a good objection." The examiner thereupon sustained the objection to the statement and refused to accept it as an exhibit in the proceeding (Tr. 5846-5854).

[fol. 1377] The witness, continuing: Following up my statement with reference to the class rate situation, we deem it important that the commission have readily available its report in docket 14150, Corporation Commission of Oklahoma versus Aberdeen & Southern Railway, 98 I. C. C. 183, decided May 6, 1925, in which rates on cottonseed products were prescribed.

Mr. Towner: We will offer that as exhibit A-271 then, Mr. Examiner.

Exam. Disque: It will be received (Tr. 5855).

(The statement described by the witness was thereupon received in evidence as Exhibit A-271.)

[fol. 1378] The Witness, continuing: We direct attention to this expression of the commission on page 235 as indicative of the rapidly changing conditions in Southwestern and Western Trunk Line rate territories: "There appears to be no good reason for not extending to all points in this destination territory the distance scales of rates hereinbefore prescribed on these commodities between points in the Southwest. It is true that the levels of rates in Illinois and certain portions of western Trunk Line territory are as a rule somewhat lower than in the Southwest, and, particularly on short haul traffic, the differences are justified by varying degrees of traffic density; but where, as here, the traffic density on all class I carriers is comparatively heavy and the hauls are as long as those to these destinations, there is ample grounds for disregarding such differences in rate levels." In Mr. Reed's commodity rate comparison eleven selected commodities are used and among this number is brick. We wish to amplify the record with respect to comparisons on brick by submitting two scales of rates recently ordered in by the Interstate Commerce Commission, The first of these is the scale established by the Interstate Commerce Commission in docket 11672, Mason City Brick & Tile Company, versus Director General, et al, decided March 1, 1926. This scale applies from various Iowa points to points in Iowa, Nebraska, South Dakota and Minnesota.

The statement described by the witness was thereupon offered in evidence as Exhibit A-272 (Tr. 5855-5856).

(The statement described by the witness was thereupon received in evidence as Exhibit A-272).

[fol. 1379] The Witness, continuing: The second exhibit shows the scale prescribed on brick in I. C. C. Docket 14617, Southwestern Brick Cases, 107 I. C. C. 681, decided March 9, 1926. These rates apply from Texas, Arkansas, Oklahoma and Kansas to points in those states and to points in Louisiana when to the Mississippi river and to Memphis,

Tennessee, and from points in Texas, Arkansas and Oklahoma to points in Missouri south of the line of the Missouri Pacific from St. Louis to Labaddie; south of the line of the Rock Island to a point west of Holden and south of the M. K. T. to West Line, Missouri.

The statement described by the witness was thereupon offered in evidence as Exhibit A-273 (Tr. 5856-5857).

(The statement described by the witness was thereupon received in evidence as Exhibit A-273.)

[fol. 1380] The Witness, continuing: The division of the commission said:

"In our report and order in the general brick case, rates on common brick in the territory here under consideration for distances up to 150 miles were required to be maintained on the basis of 80 per cent of the contemporaneous rates on articles in the Uniform brick list. Our findings herein must not be understood as modifying that basis." That relates to the Iowa case. I don't know whether common brick takes the full 100 per cent scale for all distances under the Southwestern Brick case. (The witness here said that if Attorney Outlaw said that such was a fact he would accept it. Attorney Outlaw said that that was a fact.) The Commission's decision will speak for itself on that, of course.

The distance that the majority of common brick moves might vary. The common brick scale as I recall it, was intended to apply only to so-called mud brick and later extended to brick made from shale. Now, the higher grades of brick move at the flat rate. I have not any idea as to the volume of the movement as between common and higher grade brick under the Iowa scale. I could not say whether or not the average haul of all brick is under 150 miles. To the extent that common brick might move in Iowa, of course there would be a difference in that rate and the Southwestern scale (Tr. 5858-5859-5860).

With further reference to the matter of rate comparisons in Illinois and Western Trunk Line territory versus the Southwest we have prepared an exhibit showing the rates and divisions on commodities in actual through movement and in connection therewith the local rates to and

from the junctions shown, and the percentage relation of the present division to the local rate.

[fol. 1381] Mr. Towner: We will introduce that as Exhibit A-274 now.

In connection with exhibit A-190 I want to state that the rates on coal from the McAlester, Oklahoma group to Galveston, Texas for 604 miles are $3.65 on lump and $3.04 on slack coal shown in Southwestern Lines tariff number 19-J, F. A. Leland's I. C. C. number 1642. Exhibit A-274 is a rate prorate applying to the through traffic. It applies to Exhibit A-190 introduced by the Southwestern Lines. There are several of that kind. That was Mr. Reed's exhibit (Tr. 5860-5861).

Attorney Towner here stated that the exhibit is in response to every exhibit in which the Southwestern Lines showed rate prorates on the basis of class rates north and south and that this exhibit was designed to show what a rate prorate would be if the rates which actually move the traffic were used. Attorney Outlaw said that the witness was using a commodity rate prorate instead of class rates and Attorney Towner replied that there was not always a commodity rate prorate, that it was a rate prorate of the rates north and south of the junction that would actually move the traffic (Tr. 5861-5862).

The Witness, continuing: The commodities shown in Exhibit A-274 were transported during June 1924. They are the actual moving commodities. The mileages are the short line distances according to the tariffs of the lines that were engaged in these movements. The rates shown as local rates are the rates that would move this traffic in the absence of the present through rates. Distinction is made and indicated whether they are commodity rates or class rates.

[fol. 1382] The statement described by the witness was thereupon offered in evidence as Exhibit A-274 (Tr. 5862-5863).

(The statement described by the witness was thereupon received in evidence as Exhibit A-274.)

[fol. 1383] The Southwestern lines in the testimony of Mr. Stanage on page 5509 and Mr. Trovillion on page 5566, made some reference to the absorption of Mississippi River Bridge tolls at St. Louis and contrasted the earnings of Southwestern lines after making these reductions, with the earnings of lines north of East St. Louis. No deductions were made for terminal expenses incurred by lines north of East St. *St.* Louis and in order that this situation may be clearly before the commission we have prepared an exhibit showing the earnings to lines north and south of East St. Louis on traffic handled by the Chicago & Alton, Chicago & Eastern Illinois, Illinois Central and Wabash between Chicago and the Southwest, before and after the deduction of Mississippi River bridge tolls, switching at East St. Louis and switching at Chicago. Chicago is the only destination. There would be switching at other destinations if there were any other (Tr. 5863-5864).

Here Attorney Roberts made the following objection to the introduction of the statement referred to by the witness:

Mr. Examiner, this certainly is a matter that should have been presented by these complainants when they made their case in chief. They have been treated as complainants all the way throughout, and here is a statistical exhibit that is introduced, that has been withheld until toward the latter part of the hearing, and in rebuttal. In all fairness to the set of carriers that are defendants, this sort of information should have been presented at the beginning and as a part of their case in chief, just as a matter of common fairness. It should have been presented then and not pitched in at the end of the hearing at this time (Tr. 5864).

[fol. 1384] There followed a discussion as to this objection and as to the right of the Western Trunk Lines to introduce this character of evidence. At this station of the proceeding, Attorney Larimore stated that he would ask for another hearing because the Western Trunk Lines had undoubtedly put in all of their case at the present hearing, to which the Examiner said—"As I said yesterday, whatever is not rebuttal you will have a chance to answer yourselves" (Tr. 5865).

The Witness, continuing: This statement also shows the percentage relationship of earnings of the Northern lines versus the earnings of the Southwestern lines. The figures are predicated on the movement of traffic during June, 1924. The four lines mentioned are the short lines between East St. Louis and Chicago; The mileages south of East St. Louis are those of the lines which actually perticipated in this traffic. Substantially all of the traffic handled by these four lines was delivered at Chicago on the rails of the carriers. As a matter of fact out of the total deduction of $15,189 only $312.07 switching was incurred in the interchange of traffic between these four roads at Chicago. The average of the Southwestern lines on the traffic handled was 572 miles while the average north of East St. Louis was 286 miles. In other words, the mileage of the Southwestern lines was just double the mileage of the East St. Louis-Chicago lines (Tr. 5866-5867).

We ask the commission to take into account the longer mileage of the Southwestern lines and the fact that their earnings, gross, without the deduction of terminal charges at East St. Louis were 11.87 mills per ton mile as against the earnings of the East St. Louis-Chicago lines of 9.09 per ton mile. Out of these gross figures, the lines north of East St. Louis absorbed at East St. Louis and at Chicago $15,188 while the Southwestern lines on the same traffic [fol. 1385] absorbed Mississippi River Bridge tolls to the extent of $6,417. As the result of these deductions the ton mile earnings to the lines north of East St. Louis were reduced to 7.29 mills per ton mile, while the Southwestern lines received net earnings of 11.48 mills per ton mile. Stated in other terms, the gross earnings per ton mile of lines north of East St. Louis equaled but 77.3 per cent of the earnings of the Southwestern lines, while the earnings of the Southwestern lines equaled 129.3 per cent of the earnings of the northern lines (Tr. 5867).

[fol. 1386] It does not show any absorption at points of origin, if there were any. After deduction of the Mississippi River bridge tolls, switching at East St. Louis and switching at Chicago, the net earnings per ton mile of the northern line equaled 63.5 per cent of the ton mile earnings of the Southwestern lines while the earnings of the South-

western lines equaled 157.5 per cent of the earnings of the lines north of East St. Louis. The figures which I have given are those applicable to all traffic. The statement shows separately the divisions and earnings on lumber, oil, live stock and other traffic. With respect to the figures on live stock it may be stated that the East St. Louis-Chicago lines make delivery under their own power over the tracks of the Chicago Junction Railway, to the Union Stock Yards at Chicago. Where this traffic is switched by the Chicago Junction Railway for the East St. Louis-Chicago Lines a charge of $12 per car is incurred (Tr. 5868).

We took the revenue up to our line and deducted the bridge toll from the revenue. That is, we took the Southwestern revenue up to East St. Louis and then deducted the bridge toll. All of the cars of lumber received by the Chicago & Alton are in here. I can give the cars if it is desired that I read them. One can see what the Western Trunk Lines absorb and what the Southwestern Lines absorb from the exhibit. All of the lumber of the Chicago & Alton did not move over the bridge from St. Louis. On a part of this lumber we absorbed intermediate switching at East St. Louis. There is no way to tell which part moved over the bridge and which came up the east side except by checking it with the 1924 figures. We cannot check those figures from the exhibit (Tr. 5869-5870).

In the first column we have some lumber there that did not move across the Mississippi River at all at St. Louis. Some of it came at Thebes via the Cotton Belt and the Missouri Pacific. We also have some cars that went to [fol. 1387] Chicago on which we absorb no switching charge. What we did was this: we took the entire movement of the commodities to points in the Chicago switching district and took out the absorptions that were made in Chicago, the payments we made in East St. Louis and the payments that were made by the Southwestern lines both at St. Louis and East St. Louis. In that connection I want to say that the heading in the column headed, "Bridge Tolls absorbed by Southwestern Lines" is not entirely correct, as it also includes the switching at East St. Louis absorbed by the Southwestern lines on southbound business (Tr. 5870-5871).

If we eliminated from those two columns the switching

adsorbed and the bridge tolls absorbed it would not have any effect on the ultimate figures. The switching absorptions more than double the bridge toll absorptions because on a lot of this traffic coming up through East St. Louis we absorb the intermediate switching at East St. Louis and when the traffic comes up at Chicago we absorb the switching up there. I don't know about the Thebes bridge toll. The division is made on East St. Louis. I don't know what expenses the Southwestern Lines have at Thebes (Tr. 5871-5872).

The term gross revenue represents the entire revenue up to East St. Louis and from East St. Louis to Chicago. The net revenue represents the revenue after the deductions of the switching by the East St. Louis-Chicago Lines and the bridge tolls and the intermediate charges by the lines south of East St. Louis. I think I have stated the difference in haul, north and south. I said the average mileage south was 572 miles while the average north was 286 miles, just double (Tr. 5872-5873).

Referring to the last four columns: "Percentage relationship of car mile earnings north versus south", the car mile earnings net the percentage relationship appearing in the last column to the right is the relationship—the first [fol. 1388] figure is the relationship of 25.95 to 16.64, which are the car mile earnings appearing in the fourth principal column from the right. The other figure, 155.9, is the relationship of 25.95 to 16.64. I was referring to the car mile earnings in cents (Tr. 5873-5874).

Exa[illegible] Disque: It is your conclusion then or the element of fact you desire to bring out is that although the haul south of the gateway is more than double the haul north of the gateway, the car mile earnings south are probably 40 per cent greater than those north, isn't that right?

The witness: That may not be the exact relationship, but it is that principle.

The Witness (continuing): It is the relationship between 16 and 25 (Tr. 5874-5875).

This includes all the traffic during the month of June handled by these lines. The Chicago & Alton and The Chicago & Eastern Illinois, the Illinois Central and Wabash

for deliverey at Chicago on those lines and on those lines within the switching district of Chicago. It is confined to traffic moving to and from Chicago and the Chicago switching district exclusively. It is through East St. Louis (Tr. 5875).

The net car mile earnings include the bridge tolls and the switching charges, if any, at East St. Louis. I have deducted absorptions and switching of the carriers north of East St. Louis and I have shown the absorption that the carriers south of East St. Louis have made and have only shown the absorptions in the St. Louis-East St. Louis switching district. I have not shown any absorptions that they made south of St. Louis. I think this is a very fair showing even if it does not include the charges that the Southwestern Lines may have south of St. Louis, because [fol. 1389] on the face of it it shows that the proportions north, even taking into account the conditions which are referred to, are relatively too low (Tr. 5876-5877).

Mr. Towner: Right at this point, Mr. Examiner, if it is competent, I would like to refer all of counsel that were so disturbed about this exhibit to page 5509 of the record, where I was inquiring of one of their witnesses with respect to exactly the same sort of a computation he had made. I directed his attention to the fact he had not shown the Chicago absorptions and he admitted he had not done it and sought to justify himself by saying he did not know they were competent. I call attention to that for two reasons, first, as a justification of the method by which this exhibit was gotten up, and, second, as a justification of the exhibit itself. That is exactly the same sort of evidence we were confronted with the last time.

Referring to the fourth column on Exhibit A-275, on northbound traffic, the lines north of East St. Louis paid the absorptions on the intermediate switching charge at East St. Louis so the Southwestern Lines would have no charge. The M. K. & T. and Frisco should not absorb the charge across the river if the Missouri Pacific handles it to East St. Louis. The $62.15 represents the amount of switching absorbed by the Southwestern Lines on lumber given to the Wabash Railway. If all of that lumber had come up on the east side, the Wabash would absorb all

of it and the Southwestern Lines would not have paid any of it. That did not happen. There was $62 of expenses borne by the Southwestern lines, which would represent the M. K. & T. and the Frisco. They would meet the Southwestern Lines to interchange at St. Louis. $62.15 is the total absorption of those two lines on deliveries to the Wabash for that [fol. 1390] month, according to my figures (Tr. 5878-5879-5880).

The intermediate lines, the Terminal Railroad Association at East St. Louis, or the connections of the Chicago & Alton, Chicago & Eastern Illinois, Illinois Central and Wabash at Chicago perform the switching service referred to in the column "Switching absorbed by East St. Louis-Chicago Lines". We have all kinds of lines at Chicago. They are not mostly Western Trunk Lines. They might be eastern lines. I don't know whether we kept the detailed figures as to what lines we paid this switching to. We checked the through billing to get those absorptions (Tr. 5880-5881).

On all lumber crossing the river at St. Louis the division is made at East St. Louis and in that case, if it crossed the Mississippi River from St. Louis to East St. Louis, the Southwestern Lines would absorb the bridge toll. That is true whether it went to Chicago or not. It if went to Springfield we might have other absorptions. We would not have these that are shown. These are at Chicago. But the Southwestern Lines would have the same absorptions as shown on the exhibit if the traffic was handled that way (Tr. 5881-5882-5883).

The Southwestern Lines made deductions of the tap lines allowances and prorated the balance in their exhibits. That is not what I am doing here. I am confining this to the actual switching charges. If we were to take out the charges we make to other lines, including short lines around the district, that receive their percentage of the rate we would make a different showing. That is why I say I have been fair about it (Tr. 5883).

Although we do not have Chicago switching absorptions at Springfield, we have Springfield switching absorptions there. We might absorb the switching charge of a Springfield line (Tr. 5883).

[fol. 1391] Attorney Muckley here requested that the Western Trunk Lines furnish a statement showing the amount of absorptions made in the fourth column on Exhibit A-275, and to what lines they were paid. Attorney Towner agreed to this if the data was still obtainable (Tr. 5884).

The Witness (continuing): Exhibit A-275 would include the actual revenue. I think the corrections made in Exhibit A-60 applied to the movement via Kansas City only (Tr. 5884).

The Wabash is a member line of the Belt Railway Company of Chicago. I don't know whether the Illinois Central is an owner line or not. In case of these lines we arrived at the amount of switching charges payable on traffic delivered by taking the actual switching which was paid to the Belt Railway. This statement only includes the switching which the inbound lines paid out to the connections. We worked up some of this data sometime ago, but we dropped it when the statement was made that the Southwestern Lines felt that the bridge toll situation at St. Louis should be taken into account and that the terminal situation at Chicago should not be taken into account. We thought it advisable to show the Commission just why the Southwestern Lines would take that position. In taking that position we certainly considered the fact that on all traffic crossing the river at St. Louis, the Southwestern Lines pay the bridge toll, but as to traffic going to every other place in Western Trunk Line Territory through East St. Louis, except Chicago, Chicago absorptions do not apply. I would not consider for a minute that the Chicago absorptions would apply at points other than Chicago. We have very heavy expenses at a point like Peoria. At Springfield I don't think they are as heavy as they are at Peoria. We don't reach Decatur. Bloomington charges [fol. 1392] would not be as high as Peoria. Joliet would probably be higher. I have not an exhibit like this for Kansas City, routed via Kansas City. I am only dealing with the St. Louis situation because the bridge toll situation and St. Louis has been discussed, and nothing has been said with respect to movement via Kansas City (Tr. 5884-5885-5886-5887).

The statement theretofore described by the witness was thereupon offered in evidence as Exhibit A-275 (Tr. 5887).

(The statement described by the witness was received in evidence as Exhibit A-275.)

[fol. 1393] The Witness (continuing): I started to say that it is impossible to handle live stock in this manner and to make early morning deliveries at the Union Stock Yards and for that reason it is necessary for the inbound trunk lines to handle this traffic with their own power. I make this explanation because no terminal deductions are shown in the case of live stock, not even the trackage being taken into account. I desire to emphasize the fact that numerous trackage charges are incurred in the handling of freight at Chicago, but none of these expenses have been included in the terminal deductions. Only the actual switching charges of the delivering and intermediate roads have been taken into account. One of the severe handicaps under which the East St. Louis-Chicago lines are laboring is the fact that by the absorption of intermediate switching charges at East St. Louis and terminal switching charges at Chicago there is imposed upon them a burden disproportionate to the earnings which they receive for the relatively short haul and we cannot emphasize too strongly the request that this abnormal situation be taken into account by the commission in the determination of this case (Tr. 5887-5888).

We do not prorate with the Southwestern Lines all allowances to tap lines. They pay them out of their own pocket. On southbound business the Southwestern Lines absorb the switching charges at East St. Louis and where that was done that was shown on this statement (Tr. 5888-5889).

Mr. Outlaw: Mr. Examiner, Mr. Muckley has asked for the names of the Chicago trunk or switching lines to whom these allowances were paid, and I would like to add to that request and ask that Mr. Behrle furnish the commission with the number of cars handled by each of the four lines in there, with a division as to each switching agency for [fol. 1394] the number of cars handled through that instrumentality of switching agency and the amount of money paid.

Mr. Towner: I don't know that we can furnish that.

With reference to this request the Examiner said, "Instead of putting all of this in the record, show each other your working sheets. Not for the record" (Tr. 5889-5890).

G. A. HOFFELDER was thereupon called as a witness and testified as follows:

Direct examination:

I live at Chicago and am Assistant General Freight Agent of the Burlington Railroad.

(Attorney Muckley here conceded the witness' qualifications) (Tr. 5890).

Exhibit number A-182 Witness Sickle treats with the division on petroleum and products from Arkansas and Louisiana via East St. Louis to Illinois points, Milwaukee and the Twin Cities, but deals particularly with divisions to Chicago. On traffic from Eldorado via East St. Louis to Chicago the lines north receive 30 per cent and on the basis of this percentage are accorded 10.8 cents on refined oil; 8.9 cents on crude oil and 9.1 cents on asphalt. Apparently the exhibit is designed to show that these proportions are too high and in this effort numerous rate prorates are used. In fact, at page 5269 of the record the definite statement is made that the portion accruing to Western Trunk Lines is excessive. Mr. Sickles' exhibit A-182 embodies four suggestions of the Southwestern Lines which I have analyzed and my exhibit A-276 shows the result. Proposal number 1 is that the percentage relation of the commodity rate on refined oil from Eldorado to St. Louis to the class rate Eldorado to St. Louis be applied to the local commodity rate on oil from St. Louis to Chicago and that the resultant theoretical rate prorate with the commodity rate of 29½ [fol. 1395] cents on oil from Eldorado to St. Louis. On this basis the lines south would receive 27.6 cents, or 93½ per cent of their local rate and the lines north 8.4 cents, or 49.4 per cent of their local rate (Tr. 5891-5892).

Proposal number 2 contrasts an inflated theoretical commodity rate on petroleum of 57 cents south as against the actual commodity rate of 17½ cents north and on this basis

the lines south would receive 27½ cents or 93.2 per cent of their local rate and the lines north 8½ cents or 50 per cent of their local rate. Proposal number 3 is a theoretical rate prorate using fifth class rate north and south of East St. Louis. On this basis the lines South would receive of their local rate. Proposal number 4 is that the lines north of East St. Louis be allowed the same percentage proportion of the former proportional fifth class rate of 20½ cents from East St. Louis to Chicago as the rate on refined, crude and road oil equal to the through fifth class rate. Under this fictitious prorate the lines south would receive on refined oil 28.7 cents or 97.3 per cent of their local rate while the lines north would receive 7.3 cents or 42.9 per cent of their local rate. On crude oil the lines south would receive 23½ cents or 97.9 per cent of their local rate and the lines north 6 cents or 35.3 per cent of their local rate. On road oil the lines south would receive 24.3 cents or 105.6 per cent of their local rate and the line north 6.2 cents or 36.5 per cent of their local rate (Tr. 5892-5893).

[fol. 1396] We direct the attention of the Examiner to one very important fact, which is that nowhere in this exhibit of Mr. Sickle's will there be found any suggestion of a prorate of the through revenue by using the actual commodity rate factors of the going rates, that is, the rates which actually carry the oil in carload lots from Eldorado to East St. Louis, and the rates which carry oil from East St. Louis to Chicago, and which are the commodity rates that would move the traffic from Eldorado to Chicago, if there were no joint through rates in effect.

My exhibit number A-277 is prepared to show that on an actual commodity rate prorate the lines north of East St. Louis would receive increased proportions of 2.6 cents per 100 pounds on refined oil, 3.5 cents per 100 pounds on crude oil and 4.1 cents per 100 pounds on asphalt.

The two statements described by the witness were thereupon offered in evidence as Exhibit- A-276 and A-277 respectively (Tr. 5893).

(The two statements described by the witness were thereupon received in evidence as Exhibit- A-276 and A-277 respectively.)

[fol. 1397] The Witness (continuing): My exhibit number A-278 is in rebuttal of Mr. Sickel's exhibit A-182 also Mr.

Trouvillion's Exhibit number A-216. Sheets 2 and 3 of Mr. Sickel's exhibit number A-182 deal with divisions on Louisiana-Arkansas oil via Kansas City to Chicago. It is suggested by Mr. Sickel on page 5275 of the record that the proposed divisions north of East St. Louis should be accorded the lines handling oil traffic from Kansas City to Chicago because of the additional haul of the Southwestern lines from Shreveport to Kansas City over the haul from Shreveport to East St. Louis. On exhibit number A-278 we have shown the existing divisions via Kansas City from Shreveport to Chicago on oil and in addition we have shown the present divisions via Kansas City on oil from Tulsa, Eldorado, Arkansas, and Wichitia Falls, Texas. The exhibit shows the through rates principally to Chicago, the present divisions in cents and in percents the actual short line mileage south and north of Kansas City and then the exhibit shows what the divisions would be based on a mileage prorate and also on a rate prorate using the actual commodity rates from the original points to Kansas City and from Kansas City to Chicago and the other destinations instead of using fictitious or theoretical factors north and south of Kansas City such as used by Southwestern Lines in their exhibits (Tr. 5894).

When I say fictitious, I mean that the Southwestern Lines are possibly trying to fool themselves. On the whole, I would say the fifth class rate is fictitious. I don't know why you want to pick out a fifth class rate unless to fool yourselves or somebody else. So far as Chicago as a destination is concerned in all cases under a mileage prorate the lines north of Kansas City would receive increased divisions and this is also true so far as Chicago is concerned under a rate prorate.

The exhibit described by the witness was thereupon of-
[fol. 1398] fered by the witness as Exhibit A-278 (Tr. 5895).

(The statement described by the witness was thereupon offered in evidence as Exhibit A-278.)

[fol. 1399] My exhibit A-279 is directed to Southwestern Lines exhibits A-182, A-219 and A-221 which among other things show divisions on oil principally to Chicago which apply via East St. Louis and which exhibits attempt to prove that the present divisions north of East St. Louis are too high by showing a comparison of the present divisions with fictitious or theoretical rate prorates. On my exhibit A-279 I show the present rates and present divisions on re-

fined oil, crude and asphalt from Tulsa, Oklahoma, Elorado, Arkansas, Shreveport, Louisiana, and Wichita Falls, Texas, to Chicago. I then show the short line mileages to and from East St. Louis and show what the divisions would be in cents and in percents based on a mile prorate. The exhibit also shows the local commodity rates to and from East St. Louis which actually moved the oil destined to St. Louis originating in the Southwest and which move oil from refining points in the East St. Louis district to Chicago, and points in that vicinity. The exhibit then shows what the decisions would be in cents and percents based on a rate prorate using these actual commodity rates to and from East St. Louis as factors. In the last two columns on the right hand side we show the percentage relationship of the percent divisions to the local commodity rates north and south of East St. Louis. Either on a rate prorate or a mileage prorate the lines north of East St. Louis would be entitled to increased divisions with the exception that on refined and crude oil from Wichita Falls the lines north would receive less on mileage prorate which is due to the use of M. K. T. mileage from Wichita Falls to East St. Louis. This mileage of 793 miles is almost as great as the short line mileage from Wichita Falls to East St. Louis via Kansas City.

The statement described by the witness was thereupon offered in evidence as Exhibit A-279 (Tr. 5896-5897).

(The statement described by the witness was thereupon received in evidence as Exhibit A-279.)

[fol. 1400] The witness, continuing: My exhibit number A-180 is in connection with Mr. Trouvillion's testimony relating to his exhibit A-208 which purports to show how the original group-3 Oklahoma rate or territory that was in effect at the time the I. C. C. decision in the Mid-Continent oil case was decided, has spread to Southwestern Oklahoma origin points. Mr. Trouvillion attributed the enlargement of group 3 to action of the Chicago, Rock Island & Pacific and Atchison, Topeka & Santa Fe Lines. My exhibit A-280 is the result of study of Agent Boyd's tariff naming the rates on petroleum from group 3 points and starting with March 18, 1921, the exhibit shows the subsequent dates on which rates from Oklahoma points outside of the original group 3 boundaries were reduced until finally they were put on the group 3 basis.

The statement described by the witness was thereupon offered in evidence as Exhibit A-280 (Tr. 5897-5898).

(The statement described by the witness was thereupon received in evidence as Exhibit A-280).

[fol. 1401] The witness, continuing: My exhibit number A-281 consists of 4 pages and was prepared in rebuttal of Mr. Trouvillion's exhibit number A-216 introduced at the Galveston hearing as per page 5547 of the record. Mr. Trouvillion's exhibit A-216 shows the divisions via Kansas City on petroleum oil to Chicago and six other points in Wisconsin, Minnesota, Iowa and Illinois. Among the things his exhibit shows a mileage prorate but he uses the average mileage from the enlarged group 3 Oklahoma origin territory rather than the actual short line mileage to Kansas City from Tulsa and the seven other Oklahoma points shown on his exhibit, and the short line mileage north of Kansas City. His exhibit further shows a theoretical rate prorate using the average of the fifth class rates from the Oklahoma points to Kansas City and the fifth class north of Kansas City as factors for his rate prorate (Tr. 5898-5899).

My exhibit number A-281 shows the present rates and the present divisions from the Oklahoma points to the destinations shown in Mr. Trouvillion's exhibit A-216 on refined oil, crude oil and asphalt; then it shows the local commodity rates to and from Kansas City and the divisions would be in cents and in percents based on a rate prorate.

The exhibit then shows the short line distances to and from Kansas City and what the divisions would be based on a mileage prorate. The last four columns on the right hand side of the exhibit which show the percentage relationship between a mileage prorate and the present divisions, and the percentage relationship between a rate prorate and the present divisions will tell the story.

The exhibit described by the witness was thereupon offered in evidence as Exhibit A-281 (Tr. 5899).

(The statement described by the witness was thereupon received in evidence as Exhibit A-281.)

[fol. 1402] The Witness (continuing): My exhibit number A-282 was prepared in rebuttal of Mr. Trouvillion's exhibit A-219, which among other things presents a mileage prorate on oil from Oklahoma group 3 points to Chicago

and other points in Illinois and Wisconsin by first deducting the St. Louis bridge and then dividing the balance on a mileage prorate using average short line miles from all Oklahoma to St. Louis and the short line mileage north. Also his exhibit shows a theoretical rate prorate using the fifth class rate as factor. My exhibit number A-282 shows actual performance on three carloads of refined oil destined Chicago, using the first example shown covering a car originating at Cleveland, Oklahoma, which was taken from the statement of shipments moving via Chicago & Eastern Illinois during June, 1924, which is of record in this case; it is shown that the reductions account of St. Louis bridge toll absorbed by Southwestern Lines was $11.94 that the absorption by the Chicago & Eastern Illinois at Chicago were $18.30. The 36 cents through rate divides 68 per cent south and 32 per cent north of East St. Louis and the percentage of revenues after deductions indicates that lines south of East St. Louis received 63.8 per cent of the total revenue instead of 68 per cent and the lines north of East St. Louis received 20.7 per cent of the total revenue instead of their division of .32 per cent. Percentage of the mileage haul south of East St. Louis was 63.2 per cent and north of East St. Louis 36.8 per cent.

The statement described by the witness was thereupon offered in evidence as Exhibit A-282 (Tr. 5899-5900).

(The statement described by the witness was thereupon received in evidence as Exhibit A-282.)

[fol. 1403] The Witness (continuing): My exhibit number A-283 shows actual earnings accruing to the lines north and south of East St. Louis on four typical cars of petroleum moving from Oklahoma and Texas refining points to Chicago, Illinois via Chicago & Eastern Illinois in June, 1924, the statement of which movement is of record in this case. It is directed toward Mr. Trouvillion's exhibit A-228 which purports to show earnings with the St. Louis bridge deducted. This exhibit covering four typical cars destined to Chicago shows the earnings south of St. Louis after taking off the St. Louis bridge charges and north of East St. Louis after taking off the Chicago switching absorption. Taking as an example the first car which originated at

Burkburnett, Texas, the percentage of revenue after deductions south of East St. Louis was 74.3 per cent and north 14.3 per cent instead of the established current percents which are 80 per cent south and 20 per cent north. The net result was the ton mile earnings on this car which accrued to the lines south of East St. Louis was 7.1 mills and the net ton mile earnings which accrued to lines north of East St. Louis were only 3.8 mills (Tr. 5901).

The statement described by the witness was thereupon offered in evidence as Exhibit A-283 (Tr. 5902).

(The statement described by the witness was thereupon received in evidence as Exhibit A-283.)

[fol. 1404] The Witness (continuing): That does not tell the entire story, because of the fact that in many of the cars of oil or other commodities, it is necessary to use the Belt or the Indiana Harbor as an intermediate carrier. Now, if the Belt is used as an intermediate line in making delivery in the Chicago district, the Belt have a charge of $6.30 per loaded car and the Chicago lines are obliged to also pay the Belt $3.15 for the return of the empty.

Cross-examination:

In showing the net to the lines north of East St. Louis, I first deducted the $12 allowance at Chicago, and in showing the net ton mile earnings on the lines south I first deducted the Mississippi River bridge toll. What that is is shown on the exhibit. The 7 mills per ton mile is after deducting the bridge toll at St. Louis. It will be noted that the percentage of revenue after deductions south is 74.3 per cent, whereas the Southwestern Lines divisions is 80 per cent. I am not familiar with the switching lines in the Eldorado-Smackover district. I don't know about the absorptions there. I don't know about the Louisiana Northwestern Railroad in Louisiana. I do not know the situation in the Louisiana-Arkansas oil belt (Tr. 5902-5903-5904).

On the Chicago cars there is a terminal allowance of $12 on some lines. It is 2 cents per hundred pounds, minimum 60,000 pounds, on some lines and on others it is a cent and a half, minimum 60,000 pounds. That charge is not absorbed—for instance, if the Burlington would haul the car

into Chicago and it was unloaded on the Burlington, there would be no such absorption. In case where any other line that made delivery to an industry or consignee on its own line, there would be no terminal charge. In case of cars going east when the Belt is used as an intermediary, there is a charge of $5.40 on the Indiana Harbor Belt and $6.30 on the Chicago Belt. In case of a road haul between East St. Louis or Chicago over an eastern line, if the railway [fol. 1405] bringing the traffic into Chicago happens to be a member line of the Belt railway it may use the Belt facilities and make delivery itself to the eastern connection without charge. This would not be true if the traffic was unloaded at a point on an eastern connection in the Chicago district. I don't want to give the impression that the $12 which I have shown is necessarily the charge on every car (Tr. 5904-5905-5906).

Referring to Exhibit A-278, I would not say that in selecting Tulsa I have used practically the nearest point to Chicago in the Oklahoma group of which Tulsa is a part.

Attorney Towner here said that the points that were used by the witness were used by Witness Trovillion; that witness Trovillion selected the points and this witness took his selections.

The Witness (continuing): Tulsa is one of the northern Oklahoma points. The showing would also apply from points in central Oklahoma and points as far south as Ardmore, Oklahoma, but as Mr. Trovillion testified, there was a time when the group was up in the northern part of Oklahoma, now that is spread down as far as Ardmore and Altus and Lawton. It is my understanding that the majority of the oil is shipped from that territory from points like Tulsa and Cushing rather than from these other points.

Attorney Towner here said that the facts were shown in the tonnage statements (Tr. 5906-5907).

The through rate on refined oil from Tulsa to Chicago is 36 cents and the rate on refined oil from Kansas City to Chicago is 32.5 cents. That rate is related to the Tulsa rate. The difference is only 3.5 cents for a difference in haul of 257 miles, but if it moves through St. Louis it might

be different. Both rates were fixed by the Interstate Commerce Commission. The rate from Group 3 to Chicago is [fol. 1406] too low. Under a tentative report in the Consolidated Oil Cases now pending, the Examiner proposes to give the carriers an increase in that rate (Tr. 5907-5908).

If the Tulsa rate is too low, I don't think the Kansas City rate is too high. Those points are related to each other. In the Sugar Creek or Kansas City district the shippers in that district are directly related with the Tulsa shippers. I am not saying that I have no criticism of the Kansas City rate, but it is my honest opinion that the Tulsa rate is too low. As a matter of fact, the Kansas City people, I think, now have a complaint filed which attacks the spread between Group 3 and the Sugar Creek District. I know that that complaint attacks the spread to C. F. A. territory. I am not so sanguine, however, with respect to Chicago. They want to increase the spread between the Kansas City rate and the Tulsa rate (Tr. 5908-5909).

Generally speaking, it is generally considered that the commodity rates reflect competitive and commercial conditions. It is my opinion that that is a fact. As a matter of fact the commodity rates are the rates, of course, which move the traffic and they are affected by commercial conditions in the industry, and competitive conditions among carriers, unless you have a hard and fast mileage scale (Tr. 5909-5910).

Referring to the class rates: I have heard it said that class rates are supposed to be the normal rates, but I do not altogether agree with that, because you take the Southwestern territory or take, first 9702 territory east of the Kansas City Southern, the commission's decision in 9702 very plainly intimates that the class rate level down there is high, because of the fact that there are so many, many commodity rates in existence. That is also true with repect to the Southwestern Class rates, or the Southwestern class rate situation. You have a relatively higher class rate [fol. 1407] level in southwestern territory, because of the fact you have got multitudinous commodity rates. Now, up in Western Trunk Line territory we have one of the lowest class rate scales in existence. It is a relic of the olden days. The 5th class rate for example, is less than 36

per cent of the first class rate. There are relatively fewer commodity rates in Western Trunk Line territory. I would say that the class rate structure as a whole is not as amenable to commercial and competitive influences as the commodity rate structure. I qualified my statement with respect to Southwestern Territory where there is comparatively little tonnage moving in carload lots under the class rates. They are almost all commodity rates. I think that the divisions on petroleum and its products shown on the exhibit are the agreed divisions.

Attorney Towner here stated that he had completed his case (Tr. 5910-5911-5912).

The attorneys for the Southwestern carriers thereupon requested an adjourned hearing for the purpose of rebutting testimony of the Western Trunk Lines. After discussion the Examiner announced that a further hearing would be had in the case at Washington D. C. at 10 o'clock A. M. at the office of the Commission, on June 28, 1926, and that the hearing would be solely for the purpose of affording the Southwestern Lines an opportunity to cross examine the witnesses of the Western Trunk Lines who testified at the hearing which was just being closed, and that the evidence to be introduced by the Southwestern Lines at the further hearing should be strictly and definitely and technically rebuttal of the evidence put in by the Western Trunk Lines at the hearing which was just being closed. During the course of this discussion, the Examiner said, "I think you can simplify this a good deal if you eliminate all [fol. 1408] evidence you have in mind which bears primarily on these exhibits except those which show what the divisions are and what the actual revenue is. What I want to know is what the revenue is, not what it should be. If you have eliminated that from these exhibits, you have not much to answer" (Tr. 5912-5916).

After a short discussion as to the nature of the evidence which the Southwestern Lines would introduce, the hearing was thereupon adjourned to June 28, 1926, at 10 o'clock A. M. at Washington, D. C.

[fol. 1409] Washington, D. C., Monday, June 28, 1928.

The hearing was resumed, pursuant to adjournment. The examiner called the hearing to order and Attorney Outlaw said that if the Western Trunk Lines had any further testimony, he believed they should put it in before the Southwestern Lines proceeded.

Attorney Towner replied that he had no further testimony except with respect to matters as to which request was made on him, one of which was that a suggestion was made that there should be some showing on the record with respect to the basis of settlement in the transcontinental part of the case, that Mr. Parsons had figured it out and he understood had given the figures to Mr. Dana; that the other matter was a request made upon him to furnish a breakdown of the figures shown in Mr. Behrle's exhibit A-275 (Tr. 5918-5919).

B. F. Parsons was thereupon recalled as a witness and testified as follows:

Direct examination:

Exhibit A-284, consisting of two pages, is based upon exhibits that were introduced in connection with the divisions on transcontinental traffic.

The first page is based upon data shown in Mr. Toll's Exhibit 227 of traffic other than lumber from North Pacific Coast states moving through the Missouri River crossings. Mr. Toll was a Transcontinental witness and I have shown the new percentages that were effective July 1, 1925, and I have applied these percentages to the revenue as shown on Toll's Exhibit 227 and have then carried out the calculation to show the number of miles west of the gateway compared with the miles east of the gateway represented by these divisions. The final result for the five groups east of the Missouri River is to show that the roads west of Missouri River crossings receive divisions equal to an allowance of 1.32 miles for each mile of service, while the [fol. 1410] roads east receive actual mileage. That is shown on the first page.

Page 2 is a similar compilation made from exhibits that I prepared and introduced in that hearing, and shows the

traffic handled by the Chicago Great Western Railroad, both through the Missouri River crossings and through Minnesota Transfer (Tr. 5919-5920).

This exhibits includes the North Pacific Coast lumber. On the traffic moving through the Missouri River crossings it shows the divisions west as revised July 1, 1925, were equal to an allowance of 1.34 miles. This checks quite closely with the figures computed from Mr. Toll's exhibit, which was 1.32. On the traffic moving through Minnesota Transfer it shows the allowance west was equal to 1.22 miles, and on all of the traffic moving through both Missouri River and Minnesota Transfer the allowance west is equal to 1.29 miles. The second page of course covers only traffic that was handled east of the gateways by the Chicago Great Western Railway, but it includes all lumber from North Pacific Coast territory which I could not include on page 1 for the reason that while Mr. Toll included that lumber, he included it as a single item and it was not divided as to the several destination groups east of the Missouri River crossings. Mr. Toll's exhibit included no traffic moving through Minnesota Transfer, only the business via Missouri River crossings (Tr. 5920-5921).

Cross-Examination:

It is substantially correct to say the new percentages shown on page 1 of the exhibit are in fact, the result of an agreement between all the lines which itself followed an agreement between the Chicago Great Western and the Union Pacific based largely on how much one line was willing to take and the other was willing to give. The Chi- [fol. 1411] cago Great Western and the Union Pacific reached an understanding, and then the rest of us virtually had the choice of accepting it or not; and we finally accepted it. I understand, although I was not present at the conference that in those negotiations the pivotal point of them was the minus five cent-fifteen per cent territory (Tr. 5921-5922).

On page 1 I show the ton miles for the carriers west on which the figures are based, 2,709,000,000 odd, and on page 2, on the traffic handled by the Chicago Great Western the ton miles are only 304,000,000, about 10 per cent of the ton

miles shown on page 1. The average haul shown on page 1 for the Western Trunk Lines was 460 miles and that of the Transcontinental lines west, 1,855. The comparable features on page 2 would be in the first block, that is, 483 miles east and 1,891 miles west. The figures comparable with the ones shown on page 1 are those in the first block on page 2, because that is the traffic moving via the Missouri River (Tr. 5922-5923).

Redirect examination:

The figures on page 1 of 1.32 miles west and the final figure on page 2 of 1.29 miles west are weighted figures (Tr. 5923).

J. A. BEHRLE was recalled as a witness and testified further as follows:

Direct examination:

At the last hearing I was requested to show in connection with Exhibit No. A 275 how the switching expenses at Chicago were distributed as to the destination lines.

In conformity with this request I have prepared a statement showing the switching performed at Chicago by the C. & A., C. & E. I., Illinois Central and the Wabash on traffic between Chicago and the southwest via East St. Louis based on the movement of traffic during June, 1924 (Tr. 5923).

[fol. 1412] In the compilation of these figures there are some errors in Exhibit No. A-275 detected, and for that reason we have revised Exhibit No. A-275 and we are prepared to introduce this as a corrected exhibit (Tr. 5924).

(The statement described by the witness was thereupon received in evidence as Exhibit A-275 corrected.)

[fol. 1413] Exhibit A-275 corrected does not change the original exhibit to any material extent. As an illustration of the percentage relationship of ton mile earnings north versus south the gross figures in Exhibit A-275 were 76.6 north and 130.6 south, whereas in the corrected exhibit they are 75.5 north and 132.5 south. The net figures in the orig-

inal exhibit A-275 were, north, 63.5, and, south 157.5. The corrected figures are 63.4 north and 157.8 south.

Exhibit A-285 is a statement showing switching paid at Chicago by the Chicago & Alton, Chicago & Eastern Illinois, Illinois Central and Wabash on traffic between Chicago and the southwest via East St. Louis, based on movement of traffic during June, 1924. This statement shows how the switching expense was distributed at destination. Exhibit A-285 covers the traffic shown on Exhibit A-275 corrected, the same cars (Tr. 5924-5925).

(The statement described by the witness was thereupon received in evidence as Exhibit A-285.)

[fol. 1414] Referring to Exhibit A-285, there were 1,292 cars handled by those four roads between East St. Louis and Chicago during the period shown. That is the total number of cars. Out of that number there were only 389 on which no terminal switching was incurred (Tr. 5925).

We have included all the absorptions of those four lines on the traffic delivered at Chicago.

(Attorney Towner here stated that in the last figure given by the witness he included the switching charges paid by these four roads to other Western Trunk Lines parties to this case.)

It also includes switching on exclusively switching carriers at Chicago. The principal lines which are switching carriers are the Chicago Junction, the B. & O. C. T., the Belt Railway of Chicago, the Illinois Northern, the Chicago River & Indiana, the Indiana Harbor Belt. There are some smaller lines such as the Pullman Railroad, the Manufacturers Junction Railway and the Chicago Short Line, but the ones which I have previously given are the principal switching lines. The Chicago West Pullman & Southern is one of the smaller switching lines (Tr. 5926-5927).

I do not know what per cent the lumber covered by Exhibit A-285 is of the total number received at Chicago in June 1924 by the Western Trunk Lines by all junctions. I think the exhibits introduced by Mr. Balch would show that as to the southwestern traffic (Tr. 5927).

I can not state positively, but I think the proprietary companies of the Indiana Harbor Belt are the New York Central, Chicago, Milwaukee & St. Paul and Chicago &

Northwestern. I do not know just what the Belt Railway of Chicago ownership is. There are some cases where as to the switching line shown on Exhibit A-285 the deliveries could have been made by either the Belt Lines or the Western Trunk Lines, but those cases are the exception rather than the rule.

[fol. 1415] Examiner Disque: Are we ready for the Southwestern Lines' rebuttal?

Mr. Outlaw: Yes, Mr. Examiner (Tr. 5927-5928).

CHARLES C. DANA was thereupon recalled as a witness and testified as follows:

Direct Examination:

In connection with Exhibit A-284, submitted to Mr. Parsons, which shows the relation of a weighted average mileage prorate of divisions on transcontinental traffic which became effective July 1, 1925, I desire to call to the attention of the Examiner the fact that, speaking generally, the rates between the Missouri River and the southwest are on a higher level than are the rates between the Missouri River and the Pacific Coast territory. That statement is based not only upon my general knowledge of the rate structure in that territory, but also upon certain checks which I have made. For instance, I have taken the class rates between the Missouri River and the Pacific Coast terminals and between the Mississippi River and Pacific Coast terminals and determined the average revenue per ton per mile for the average of the ten classes as to those rates, and have also taken the class rates from Kansas City to the Dallas-Fort Worth group, and from Kansas City to Texas common points, also from St. Louis-East St. Louis to Texas common points, and determined the average revenue per ton per mile for the average of the ten classes in exactly the same manner (Tr. 5929-5930).

On the ten class rates between the Missouri River and Pacific Coast terminals the average revenue per ton per mile for the average of the ten classes is 2.706 cents; between the Mississippi River and Pacific Coast terminals. The average revenue per ton per mile for the average of the ten classss is 2.47 cents; from Kansas City to Dallas-

Fort Worth group the average revenue per ton per mile for the average of the ten classes is 4.488 cents. In the [fol. 1416] same manner Kansas City to Texas common points, 3.579 cents. From St. Louis-East St. Louis to Texas common points, 3.178 cents. In determining these average revenues per ton per mile I used the average haul west of the Missouri River as may be determined either from Mr. Parsons' Exhibit A-284 or Mr. Toll's exhibit A-227, namely, 1,855 miles. And between the Mississippi River and Los Angeles, San Francisco, etc., the average haul was 2.221 miles. For Kansas City to Dallas-Ft. Worth I used the average haul for northeast Texas points in Mr. Parsons' Exhibit A-77 of 514 miles, and Kansas City to Texas common points other than northeast Texas, from the same exhibit, 713 miles; St. Louis-East St. Louis to Texas common points, from the same exhibit, 803 miles (Tr. 5930).

I also checked the rates both from the Missouri River to Pacific Coast terminals and from the Missouri River to Texas common points on a number of commodities which move in considerable quantity as shown by the exhibits in this case from Western Trunk Line territory to the southwest. I used the rates on farm wagons, windmills, agricultural implements, boilers—power, paper, books, roofing material, cheese, desks, refrigerators, wrapping paper, automobiles, stoves, paint, soap, tinware, matches and condensed milk, also corn and wheat, southbound, sulphur northbound from Texas and westbound from the Missouri River to Pacific Coast terminals, and citrus fruits from California to the Missouri River and from territory on the St. Louis, Brownsville & Mexico to the Missouri River. In each and every instance, with the exception of sulphur, the average revenue per ton per mile was greater on the rates to or from southwestern territory than to or from the Missouri River and transcontinental territory. We know that in many instances transcontinental rates are the maximum rates to Texas common points; also that the Texas common point rates are in many instances maximum rates to Oklahoma. I think there can be no question but what, as I said, in the beginning, speaking generally, the level of the rates between the Missouri River and the southwest is [fol. 1417] higher than the level of rates between the Missouri River and transcontinental territory based on weighted average hauls (Tr. 5931-5932).

Q. Have you Mr. Westcote's exhibit before you?
A. Yes; Exhibit A-252.

Mr. Outlaw: Mr. Examiner, before Mr. Dana proceeds with his testimony I would like to move that all references on Exhibit A-252 to the proposed rates in Western Trunk Line territory be stricken from that exhibit. Similar data was stricken from the record offered in other exhibits on the objection of the Southwestern lines, and that exhibit, by reason of its complexities and the number of pages, escaped my notice, and I would at this time ask that that part of the exhibit be stricken, to clear the record.

Examiner Disque: If there is no objection we will disregard it.

Mr. Towner: There is objection.

Examiner Disque: Did you object to the other ones?

Mr. Towner: Yes, sir. I was overruled, but I objected just the same.

Mr. Muckley: I think it ought to be stricken out, Mr. Examiner (Tr. 5932).

In testifying with respect to his Exhibit A-252 Mr. Westcote, in referring to sheet 1 of that exhibit which is a statement of class rates and divisions between Chicago and Texas common points via East St. Louis showing the rates in effect December 1, 1892 and the present rates, made the following statement, as shown on page 5771 of the record:

"Out of the present rates the lines north are only receiving 75.3 per cent, while the southern lines have succeeded in maintaining the same ratio. In other words, the percentage relationship of proportions of lines north has decreased 8.5 per cent with no change south." That remark was di- [fol. 1418] rected toward the percentage relationship of the divisions north to the local rates. Mr. Westcote's statement is true, but it needs some explanation. In the first place, by referring to sheet 1 of the exhibit and using the average of the ten classes it will be found that the through rates from Chicago to Texas common points as of today are 158.4 per cent of the 1892 rates; also that the divisions north of East St. Louis are 161.9 per cent of the 1892 divisions. In other words, the divisions to the lines north of East St. Louis have increased in greater ratio than have the joint through rates. That was brought out in my direct testimony (Tr. 5932-5933).

In so far as the local rates north of East St. Louis are concerned, it will be found by referring to the same page of the exhibit that the local rates north of East St. Louis are 180.5 per cent of the 1892 rates; that is to say, the local rates have increased at a much greater ratio than did the through rates. That was brought about by the increases which were made effective February 15, 1920, under Freight Rate Authority 21432 in the rates between Chicago and St. Louis which had been increased on June 25, 1918, 25 per cent under General Order 28. Those rates, I think, were at that time increased, that is to say, February 15, 1920, to conform to the rates which had been made effective or established for like distances in C. F. A. territory. Then on August 26, 1920, these increased rates were again increased in Illinois under Ex Parte 74 by practically 40 per cent, there being some variations in order to make them conform to the percentage relationship of the classes which had been established; and of course those rates which had been increased were reduced under Reduced Rates 1922, 10 per cent. That had the effect of increasing the local rates north of East St. Louis by a much greater ratio than the through rates between Chicago and Texas common points were increased (Tr. 5933-5934).

[fol. 1419] I think it will be interesting to point out to the Examiner that a somewhat similar situation obtained when the rates were increased, I think under Ex Parte 57, 15 per cent in C. F. A. territory, and the question arose as to the divisions which the C. F. A. lines should receive out of the joint through rates between C. F. A. territory and Texas common point territory. At the time these rates were increased 15 per cent in C. F. A. territory the Southwestern lines approached the Commission at a conference with then Chairman Hall on August 8, 1917, and urged the Commission to permit them, the Southwestern Lines, on five days notice to increase the through rates applying between points in C. F. A. and Trunk Line territories, on the one hand, and Southwestern territory on the other, by an amount equal substantially to the increases allowed the eastern lines in the 15 per cent case and the C. F. A. class scale case, or, failing that, that the Commission should indicate definitely that it was not the intention of the Commission to permit such increases or any increase in the proportion of joint through rates accruing to the eastern lines.

The answer from the Commission took the form of a communication addressed by Chairman Hall to George S. Patterson, General Solicitor of the Pennsylvania Railroad, Eugene Morris, Chairman of the Central Freight Association, and C. C. McCain, Chairman of the Trunk Line Association, which was dated August 18, 1917, and which reads as per the exhibit which I am about to submit (Tr. 5934-5).

Mr. Outlaw: I ask that this be admitted as Exhibit A-286.

Mr. Towner: I object, because it has nothing to do with this case. I was served with a copy of the exhibit by Mr. Outlaw, but I cannot see that it has any bearing on the issues here.

Here followed a discussion as to the admissibility of the exhibit in which Attorney Towner stated that the Supreme Court in the recent Peoria & Pekin Union decision had expressed itself very plainly concerning a substantially similar communication of Mr. Commissioner Aitchison, but that [fol. 1420] the point that he based his objection on was that the exhibit had nothing to do with the case. The examiner finally made the following ruling: "We are wasting a lot of time. I doubt whether it is admissible, but I will let it go in" (Tr. 5936-5937-5938-5939).

(The document described by the witness was thereupon received in evidence as Exhibit A-286.)

[fol. 1421] On page 5829 of the record the following question is shown as having been put by Mr. Outlaw to Mr. Gillette who was then testifying: "On traffic which you interchange at Chicago destined to and from Texas common points the Chicago & Northwestern gets 15 per cent of the through rate for its service north of Chicago, does it not?" And Mr. Gillette, after some sparring, said, on page 5830 of the record—"Here is the catch on that. Your division sheet reads that the Southwestern lines will receive 85 per cent of the Milwaukee rate. You get 60" (Tr. 5939-5940).

I think that was an unintentional misstatement on the part of Mr. Gillette. I think he was thinking perhaps of Fox River territory; but if the Examiner will refer to Southwestern lines division sheet No. 40, which was put into the record as an exhibit by Mr. Behrle—I do not know just what the number of it was—he will find on page 26 thereof, under item No. 245 covering Chicago and Milwau-

kee territories, the following statement as to divisions from Chicago & Northwestern points, except traffic within the Chicago switching district; C. M. & St. P. points except when handled via interior Iowa junctions to Texas common points taking common point rates or less, a provision to the effect that the lines to Chicago, that is, lines north of Chicago junctions, will receive 15 per cent. The remainder divides on Chicago percents. That is to say, the lines south do not get their 85 per cent first, but the lines north of Chicago on this particular traffic get 15 per cent of the joint through rate from Milwaukee to Texas common points, and the 85 per cent remaining is subdivided on the basis of Chicago percents if it moves via the Missouri River or via East St. Louis (Tr. 5940).

Cross-examination:

The transcontinental rates to a very considerable extent cover very large blankets. The citrus fruit rate for example, blankets all the way from the Missouri River, I do not know but from Colorado common points clear to the [fol. 1422] Atlantic seaboard. That is not true of vegetables. The vegetables I think are lower to Chicago than to territory east of Chicago. They are $1.46 I think to Chicago and $1.73 to the Atlantic Seaboard. That is true to a very considerable extent of a good many other commodities. As to the commodities the rates are blanketed more or less. The class rates are not blanketed (Tr. 5941).

The blanket situation does not necessarily have the effect of producing a lower rate at the Pacific Coast terminals than would be produced if we had a graded rate all the way across. That depends on what situation the transcontinental lines are trying to meet. I think that in all fairness to the transcontinental lines it is proper to say that probably the transcontinental lines on many commodities are lower than what might properly be considered a just and reasonable rate. We do not constantly attempt to increase the transcontinental rates and carry higher rates to intermediate points because of the fact that our terminal rates are depressed. You understand that these rates which I have compared are rates which apply to all the transcontinental territory. That is to say a rate that is no

higher at the intermediate point than at the Pacific Coast Terminal (Tr. 5942).

I think many of the commodity rates from the Pacific Coast terminals I have referred to in making the comparison with the Southwestern situation are low rates. I would not like to make the broad statement that they are too low. Of course you know that the rates on Southwestern traffic as far as commodities are concerned, are likewise depressed by market competition and carrier competition. I mean to the southwest. Take the sulphur rate that is depressed in order to meet the competition of the imported sulphur. I do not think that that situation exists in the southwest to the extent that it does at our Pacific Coast terminals be- [fol. 1423] cause there is not the same necessity for it (Tr. 5943).

In drawing up this comparison I took quite a number of commodities. I testified to certain commodities that I took. The commodities which I took were moving commodities, those which I found to be moving from Western Trunk Line territory to southwestern territory. I do not conclude from that showing that the cost of handling traffic in the southwest is higher than it is from transcontinental territory. I conclude from that that in order to pay a fair rate of return to the southwestern lines it is necessary for them to have a higher rate level possibly than obtains on transcontinental traffic. I refer to this evidence to indicate that because of conditions other than the actual cost of hauling traffic the Southwestern Lines possibly are entitled to a higher rate level than the transcontinental lines in order to pay a return on the value of the investment. I have not seen any figures that would indicate that we did not need that much. I do not know that the southwestern line as a whole are earning anywhere near a fair rate of return as fixed by the Commission. I do not think that it necessarily follows that if we are earning more than the fair rate of return the rate level is too high. There is nothing in the Interstate Commerce act which says that a rate may not earn more than a fair return. In fact, the act itself provides that when there is an excess return, 50 percent shall be retained by the carrier, indicating clearly that they anticipated that some carriers might earn more than a fair rate of return. I think that the law prescribes that every carrier is entitled to a fair

rate of return. I think that what has been into the record was that the Southwestern Lines are earning less than a fair return.

[fol. 1424] With regard to the transcontinental rates, the competition to which I referred as depressing some of the commodity rates is that present in the transcontinental class rate structure (Tr. 5944-5945-5946).

A. J. LEHMANN was thereupon recalled as a witness and testified as follows:

Direct examination:

Comment is made on page 5706 of the transcript with respect to the mileages shown to East St. Louis from the so-called Southwestern blanket as a whole on Exhibits A-183 and A-184. The former shows the distance to be 697 miles. The distances shown on Exhibit A-183 and A-184 were taken from Exhibit A-185 which is a reproduction of Exhibit 5, filed in connection with I. C. C. Docket 5394 reported in 33 I. C. C. 33 and is a consolidated statement covering all interstate shipments of yellow pine lumber originating in the blanket territory on lines of carriers listed as defendants in I. C. C. 4907 or received by such carriers from non-defendant carriers for movement to St. Louis, Mo., and East St. Louis, Ill. (Tr. 5946-5947).

The average haul per ton mile from the blanket as a whole to St. Louis is shown to be 696.69 miles on Exhibit A-185. In our Exhibit A-183 we used 697 miles. In determining the mileage per cents as shown on Exhibit A-183 to points of destination west of the Mississippi River we applied the St. Louis mileage to East St. Louis and the mileage of the Western Trunk Lines from St. Louis. We show routing via East St. Louis on Exhibit A-183 because substantially more lumber is delivered to northern lines for movement into Western Trunk Line territory at East St. Louis than is delivered at St. Louis. The average haul per ton mile from blanket territory as a whole to East St. Louis is shown to be 678.38 miles on Exhibit A-185. In our Exhibit A-184 we use 679 miles. If we had used to those destinations shown on Ex-

[fol. 1425] hibit A-183 which are located west of the Mississippi River as the Southwestern mileage factor 679 miles to East St. Louis it would not affect to any substantial degree the mileage percents shown on Exhibit A-183 (Tr. 5947-5948).

To Hannibal, Mo., we show mileage south 697 miles, north 118 miles; percents south 85.5, north 14.5. If we use south 679 miles and north 118 miles the percents would be, south, 85.2, north, 14.8. In division of the present rate of 37. cents from the blanket group to Hannibal the lines to East St. Louis receive 26.1 cents and the lines north receive 10.9 cents.

If we employed the mileage percents as shown on Exhibit A-183, that is, 85½ south and 14½ north, and apply such percents to the present rate of 37 cents from the blanket, interested lines would receive to meet St. Louis 31.6 cents and northern lines 5.4 cents. If we should use mileage percents for 85.2 for lines south of East St. Louis and 14.8 for lines north, the revenue in cents per hundred pounds would be south 31½, north 5½. This is typical of what the result would be to other destinations and in our opinion clearly indicates that the slight difference in the mileages shown to East St. Louis on Exhibits A-183 and A-184 would not adversely affect the lines south or north of East St. Louis (Tr. 5948).

In commenting upon the mileages shown in Exhibits A-283 and A-284, witness Schmidt points out that the destinations as shown thereon are less than the average distances shown on Exhibit A-77 and as a result thereof he says "The distance percents due to this would be somewhat higher to the lines north of those points." In determining the distances which we have shown we used the short line distances through workable routes. To Des Moines, Iowa, [fol. 1426] we show 330 miles. Exhibit A-77 shows 343 miles. The actual short line distance is 329.3 miles, made up 171.2 miles via C., B. & Q. to Keokuk, 113.9 miles via C., R. I. & P. to Harvey, Iowa, and 44.2 miles Harvey to Des Moines via the Wabash. To Marshalltown we show 331 miles. Exhibit A-77 shows 356 miles. The actual short line distance is 331 miles as shown on Exhibit A-283 and is made up 171.2 miles via C. B. & Q., St. Louis to Keokuk, 102.4 miles via Rock Island to Oskaloosa and 57.4 miles

Oskaloosa to Marshalltown via M. & St. L. This is another instance where the mileages used by the southern and northern lines would not affect the result in any substantial degree. The statements made on page 5707 of the transcript to the effect that Western Trunk Lines on traffic from the southwestern blanket group to points west of the Mississippi River are now receiving the same measure of increases as has been made in the through rate under the general increases, and reductions as of July 1, 1922, is not altogether correct (Tr. 5948-5949).

As examples, the present rate to Hannibal, Mo., from the blanket territory is 37 cents. The rate in effect May 1, 1917, was 24.5 cents. This represents an increase of 51 per cent in the through rate. As of today, the lines north of East St. Louis receive on lumber from the blanket group to Hannibal 10.9 cents: As of May 1, 1917, the lines north of East St. Louis received 6.5 cents. This represents an increase of 67.7 per cent in the division compared with an increase of 51 per cent in the total through rate. On lumber from the southwest blanket group destined Cedar Rapids, Des Moines and Marshalltown, Iowa, also St. Paul, Minn., the increase in the total through rate and increase in the arbitrary allowed northern lines beyond East St. Louis were substantially the same. To Winona, Minn., however, the increase in the total through rate was 47½ per cent, while the arbitrary of the lines north of East St. Louis increased 57.6 per cent, or 10.1 per cent more than the through rate. It is our view, however, that on the [fol. 1427] whole the proportions for lines south and north of East St. Louis increased in the same measure as increases have been made in the total through rates since May 1, 1917 (Tr. 5949-5950).

My testimony up to this time has been with respect to those points of destinations that are located west of the Mississippi River and speaking of that territory, the increases in the divisions north and south have been on approximately the same percentage as the increase in the through rate. It is my conclusion that that justifies the present divisions to and from that territory on lumber. Because the divisions in effect as of May 1, 1917 were fixed by the Commission in I. & S. Docket 299 and the

proportions for lines north of East St. Louis have been increased in the same amount or same percentage as the total through rates have been increased, I conclude that those divisions are now all right today.

Witness Schmidt on pages 5707 and 5708 of the transcript as dealing with divisions to points of destination located east of the Mississippi River undertakes, as we see it, to create the impression that the northern lines did not receive increased proportions corresponding with the increases and decreases made in the total through rates from the Southwest blanket territory under General Order 28 of the Director General, Ex Parte 74, and I. C. Docket 13293 (Tr. 5951).

In this view of the matter we must, to an extent at least, take exception. The joint through rates on lumber and other forest products grouped therewith from the southwest to Illinois Freight Association territory and to points in Wisconsin located north of the so-called Milwaukee group territory, were made up by combining the separately established local or proportional rates applying up to and beyond Thebes, Ill., as of June 24, 1918, and via the rate making junction, i. e., Thebes, Ill., the proportion of the [fol. 1428] southern and northern lines on lumber originating in the Southwest blanket territory rate group were increased and decreased in amounts corresponding with the changes that have been made in the total through rates. As an example, we point to the rate from the Southwestern blanket to the Chicago group and to the Peoria group, which include points of destination that consume a very substantial amount of lumber and other forest products. To Chicago and group, the through rate from the blanket territory as of June 24, 1918, was 27.5 cents per 100 pounds, made up 16 cents to Thebes and 11½ cents beyond. In dividing that rate, the lines to and from Thebes received their established rate factors (Tr. 5952).

The current rate from the blanket territory to Chicago is 39½ cents, which divides to Thebes 23 cents, beyond 16½ cents. These factors were determined by converting the June 24, 1918, local rates up to and beyond Thebes into percents, to wit: south 58.2 per cent and north 41.8 per cent, and applying such per cents to the presently applicable rate of 39½ cents. The rate from the blanket group to Chicago

is 39½ cents. The June 24, 1918, rate was 27½ cents. This represents an increase of 43.6 per cent. The present division from Thebes to Chicago on lumber from the blanket group is 16½ cents. The June 24, 1918, arbitrary was 11½ cents. This represents an increase of 43.5 per cent, or substantially the same per cent of increase as was made in the through rate. To Peoria and group the through rate from the blanket territory on June 24, 1918, was 26.5 cents, made up 16 cents to Thebes and 10½ cents beyond. In dividing that rate, the lines to and from Thebes received their established rate factors. The current rate from the blanket territory to Peoria and group is 38½ cents and divides to Thebes 23.3 cents, beyond 15.2 cents. These factors were determined by converting the June 24, 1918, local rates up to and beyond Thebes into percents, to wit: south [fol. 1429] 60.4 per cent, north 39.6 per cent, and applying such percents to the presently applicable rate. The present rate from the blanket territory to Peoria is 38½ cents. The June 24, 1918, rate was 26½ cents. This represents an increase of 45.3 per cent (Tr. 5952-5953).

The present division from Thebes to Peoria is 15.2 cents. The June 24, 1918, division was arbitrary of 10.5 cents. This represents an increase of 44.8 per cent, or substantially the same increase in the proportion for northern lines as was made in the total through rate. To Fond du Lac and Marshfield, Wis., the through rate from the blanket territory June 18, 1924, was 34 cents, made up 16 cents to Thebes and 18 cents beyond. In dividing that rate the lines to and from Thebes received their established rate factors. The current rate from the blanket territory to Fond du Lac and Marshfield is 45 cents and divided to Thebes 21.2 cents, beyond 23.8 cents. These factors were determined by converting the June 24, 1918, local rates up to and beyond Thebes into percents, to wit: south 47.1 per cent, north 52.9 per cent, and applying such percents to the present rate. The rate from the blanket group at present in effect to Fond du Lac and Marshfield is 45 cents. The June 24, 1918, rate was 34 cents. This represents an increase of 32.3 per cent. The present division from Thebes to Fond du Lac and Marshfield is 23.8 cents. The June 24, 1918, arbitrary was 18 cents. This represents an increase of 32.2 per cent, or substantially the same increase in the proportion for

northern lines as was made in the total through rate I have been speaking about lumber to the blanketed territory (Tr. 5953-5954).

[fol. 1430] The object in citing these examples is to point out that via the rate-making junctions the southern and northern lines have participated in the increases and reductions to the extent that changes have been made in the total through rates since June 24, 1918.

Considerable has been said with respect to the proportions that the lines from Thebes to East St. Louis received in subdivision of the increased proportions that were allowed lines north of Thebes on lumber from the southwest to Illinois Freight Association territory and Chicago and Chicago group points, but we express the thought that that point is not directly in issue in these proceedings. The divisions on lumber traffic from the southwest to Illinois Freight Association territory via Thebes and via East St. Louis, Ill., must, in our opinion, be considered separate and apart from each other, there being no relation one to the other. The divisions via Thebes are based on the rate factors used in the determination of the joint through rates. The divisions via East St. Louis have always been made independently of Thebes (Tr. 5954-5955).

Certain arbitraries were allowed lines north of Thebes, and these proportions on lumber traffic destined Chicago and Chicago rate points divided by employing merchandise percents, 35 per cent Thebes to East St. Louis, and 65 per cent East St. Louis to Chicago. To other points in Illinois the lines Thebes to East St. Louis received 3 cents per 100 pounds and the lines north of East St. Louis 3 cents less than the rate or proportion north of Thebes. This latter basis was in effect prior to the increase which became effective June 25, 1918. The Southwestern lines do not now ask [fol. 1431] nor have they in the past asked to be allowed in excess of their local rates in division of joint through rates on lumber from the southwest to Illinois Freight Association territory. They do, however, object to using the extremely low divisions they received up to East St. Louis as of June 24, 1918, in determining percents to be applied to the present through rates. To do so would have the effect of establishing divisions via East St. Louis without regard for the long standing basis of merchandise percents ap-

plicable from Thebes. These percents apply not only from Thebes, Ill., proper, but are also used in dividing via East St. Louis the proportions accruing to the lines north of Thebes.

Witness Schmidt says he does not understand how lines handling traffic across the river at St. Louis could consistently claim a proportion of the Thebes rate for the reason that they do not handle the traffic via Thebes. Southwestern Lines who operate into East St. Louis via St. Louis are not asking they be allowed a proportion of the Thebes rate (Tr. 5955-5956).

For years the lines north of East St. Louis have accepted on lumber delivered to them by their west-side connections, such as the Frisco, M-K-T, and other lines similarly situated, the same proportion in cents per one hundred pounds as they accepted on like traffic they received from those southwestern lines who reach East St. Louis via Thebes and in this proceeding no change in that basis is contemplated. Page 2 of Exhibit A-249 is misleading. The rate of 27½ cents from the the Blanket territory to Chicago as of June 24, 1918, did not divide by allowing lines Thebes to East St. Louis 3 cents. On the contrary the lines to Thebes received 16 cents and the proportion of 11½ cents accruing to lines north of Thebes subdivided on established basis which allowed lines Thebes to East St. Louis 35 per cent. In dividing the present rate of 39½ cents from the blanket group, the lines to Thebes receive 23 cents and the lines [fol. 1432] north receive 16½ cents. The arbitrary of 16½ cents should under our normal basis divide Thebes to East St. Louis 35 per cent, or 5.8 cents, and 65 per cent, or 10.7 cents north of East St. Louis. Under this latter basis the through rate of 39½ cents would divide to Thebes 23 cents, Thebes to East St. Louis 5.8 cents, north of East St. Louis 10.7 cents, or via East St. Louis; and combining the proportions to Thebes and from Thebes to East St. Louis 28.8 cents south and 10.7 cents north. Actually, however, the through rate is being divided to Thebes 23 cents, Thebes to East St. Louis 5.1 cents, or a total proportion of 28.1 cents; and north 11.4 cents (Tr. 5956-5957).

The present basis that is employed in determining the divisions for lines south of East St. Louis allows to those carriers on lumber destined Chicago and Chicago group

points 7/10 of a cent less than they are entitled to. On page 5710 of the transcript Witness Schmidt undertakes to create the impression that the northern lines were forced to accept revenue less than that to which they were entitled. We take exception to this statement. The specific proportions allowed lines beyond Cairo, Gale, Thebes and East St. Louis on lumber from the Southwest to points in Illinois Freight Association territory as published in SWL Division Sheet 47-A, I. F. A. Division sheet No. 12-A, are a matter of agreement between the originating and destination lines and are the result of a joint meeting of Southwestern and Illinois Freight Association Lines held in Chicago September 10, 1924. In order that there may be no question as to the correctness of this statement, we should like, if we are permitted, to file as an exhibit a copy of the proceedings issued by Chairman Galligan of the Illinois Freight Association (Tr. 5958).

A statement showing the representation and agreement reached at the meeting to which the witness referred was [fol. 1433] thereupon offered in evidence as Exhibit A-287 (Tr. 5959).

(The document referred to was received in evidence as Exhibit A-287.)

[fol. 1434] The Witness: It is claimed by witness Schmidt, page 5711 of the transcript, that Southwestern carriers have not accorded member lines of the Illinois Freight Association the same treatment as they have accorded Western Trunk Lines in the matter of divisions on forest products. Our views are not in agreement with that statement. The divisions presently in effect to points west of the Mississippi River in Western Trunk Line territory were determined by using, as of June 24, 1918, 18 cents to East St. Louis and the balance of the through rate then in effect as the proportion for lines beyond East St. Louis. Such factors were then converted into per cents and the resulting per cents applied to the several changes that have been made in the rate adjustment from the blanket territory (Tr. 5959).

The same identical basis was used in arriving at the proportions to be allowed lines members of the Illinois

Freight Association except that we used 16 cents to Thebes, the rate-making junction, as of June 24, 1918, and the established rate beyond Thebes as of that date. Such factors were then converted into percents and the resulting percents applied to the several changes that have been made in the rate adjustment from the southwest since June 24, 1918. Pages 5, 6, 8 and 8A of Exhibit A-249 relate to the divisions from points north of the blanket group and it is pointed out that the Southwestern Lines received a greater percentage of the increase in their divisions than was made in the through rate, whereas the opposite of that situation is true with respect to lines beyond Thebes and East St. Louis. Under the existing basis of divisions with the northern lines, the carriers beyond Cairo, Gale, Thebes and East St. Louis are allowing proportions that remain constant, regardless of the origin of the lumber. This is as it should be. The service rendered by the northern lines is constant and [fol. 1435] the divisions therefore should be constant. The opposite of that situation is true with respect to the originating lines. Their service varies according to origin of the lumber or other forest products (Tr. 5959-60).

In treating with condition of this kind, it is important we have some regard for the divisions we operate on other traffic and with other carriers where substantially the same conditions exist. We have joint through rates on lumber and other forest products from the Southwest to Central Freight Association destinations and in dividing such rates the lines beyond Cairo, Gale, Thebes or East St. Louis are allowed proportions that are constant, regardless of the origin of the lumber. We have joint through rates on Cotton from the southwest to eastern spinning points, and the arbitraries allowed lines beyond Cairo, Gale, Thebes, or East St. Louis are constant, regardless of the origin of the cotton. Also we have through rates to Louisiana and Texas gulf ports on forest products, and the proportions we allow beyond our points of interchange are constant. To Texas destinations where through rates are in effect, the destination lines are allowed proportions that are constant. The same situation is true with respect to divisions to points of destination in Oklahoma and to the west generally. As dealing specially with lumber to Illinois Freight Association and Western Trunk Line territories, our basis of divisions

is not dissimilar to that which the Illinois Freight Association and Western Trunk Lines operate on lumber moving from Mississippi Valley territory; that is to say the lines north of the river crossings accept proportions that are constant, regardless of origin of the lumber (Tr. 5960-1.)

In commenting on page 9 of Exhibit A-246 showing rates and divisions from a few points in the Southwest Blanket Group, it was pointed out that on Chicago traffic lines south of East St. Louis receive 95.2 per cent of the local rate, [fol. 1436] whereas lines north of East St. Louis receive 73.5 per cent of the local rate. Via the rate making gateway, i. e., Thebes, which is the junction that must be considered, the lines to Thebes receive 93.8 per cent of the local rate and the lines from Thebes to Chicago receive 89 per cent of the local rate. If the rate from Thebes to Chicago had been increased under Ex Parte 74 in the same percent of increase as was made in the rate to Thebes, the lines Thebes to Chicago would receive 96 per cent of their local rate. On Exhibit A-185 the average haul per ton is shown to be as folows: To St. Louis, 696.69 miles; to East St. Louis, 678.38 miles. Page 11 of Exhibit A-249 shows the average haul on lumber from points in Arkansas, Louisiana, Oklahoma and Texas to East St. Louis to be 526.2 miles, and, exclusive of Arkansas, 648.9 miles. These figures were obtained from Exhibits A-116 to A-122 inclusive and are not questioned, but we do express the thought that the average haul per ton as shown in Exhibit A-185 is more nearly representative. Exhibits A-116 to A-122, inclusive, cover one month's movement. The figures shown on Exhibit A-185 cover six alternate months for a period of one year (Tr. 5962).

Exhibits A-116 to A-122, inclusive, show a movement of 26,607 tons to and via East St. Louis. Exhibit A-185 shows a movement of 153,221 tons to St. Louis, Mo., and East St. Louis, proper, and a movement of 513,967 tons to Thebes, proper, and points basing thereon when moving through Thebes. As a very large part of the lumber moving to Thebes is handled via East St. Louis, it would appear to be proper to add to the East St. Louis figure of 32,137 tons as shown on Exhibit A-185 the Thebes figure of 513,966 tons, thus showing a total movement via East St. Louis of 546,103 tons, as contrasted with movement of 26,607 tons as shown

on page 11 of Exhibit A-249. Manifestly it is possible to [fol. 1437] more nearly approximate the average haul when using a movement of 23,685 cars as shown on Exhibit A-185 to East St. Louis and Thebes for beyond, than it is by using a limited number as covered by Exhibits A-116 to A-122, inclusive. Also we want to point out that the figures shown on Exhibit A-185 were prepared almost thirteen years ago, and it is well known that since that time the center of production has moved southward considerably. It is our view that the average haul on lumber as of today from the Southwest Blanket territory as a whole is actually in excess of the average haul of 696.69 miles to St. Louis and 678.38 miles to East St. Louis as shown on Exhibit A-185 (Tr. 5962-5963).

I base my opinion upon my knowledge of the fact that the mill points on the north edge of the blanket are continually dismantling because their source of supply has become exhausted and that new mills are being erected continually in the southern end of the blanket along the Gulf of Mexico. That of course, will have a tendency to increase the average haul. I have nothing concrete with respect to what the mileage is other than Exhibit A-185 (Tr. 5964).

On page 5723 of the transcript Witness Schmidt objects to what he terms certain Southwestern Lines compounding their divisions. We cannot agree that a condition of that kind exists south of the junction points involved in this proceeding. While it is true the Cotton Belt and Missouri Pacific participate in joint through rates from the Southwest to Illinois Freight Association territory and in the handling of that traffic move it to Thebes, thence over their own rails to East St. Louis, and by reason of that condition are allowed agreed proportions to Thebes and additional revenue for the additional service from Thebes to East St. Louis, there is nothing unusual in that situation nor is it contrary to practices generally prevailing. Both [fol. 1438] the Cotton Belt and Missouri Pacific could, if they so elected, surrender this lumber traffic to their connections such as the Illinois Central and the Chicago and Eastern Illinois at Thebes for movement beyond that point over those lines who in turn would effect delivery at interior Illinois points to the destination lines serving the Chicago and Peoria rate territories (Tr. 5964-5965).

As to shipments handled via the routes last described, it is not our understanding there is raised any question as to the subdivision of the proportion accruing to the lines north of Thebes, and if such is the case it seems altogether improper that the divisions via East St. Louis should be brought into play. We are not advised as to the specific percentages applicable from Thebes to Illinois Freight Association territory via any junction other than East St. Louis, but assuming that via some of the interior Illinois junctions the same percentage applied as of June 24, 1918, as were applicable via East St. Louis, we do not see that those Illinois Freight Association lines that have their own rails from Thebes are here suggesting a modification of divisions through the junctions via which they have interchange arrangements, but they do ask that a change be made via East St. Louis regardless of the fact that the lines south of East St. Louis were compelled to accept, in division of joint through rates, an abnormally low local rate while that same low rate factor which the lines via East St. Louis accept did not extend to the interior Illinois Junctions. The thought is expressed as to traffic moving through a basing point and handled from the basing point by the same line and interchange made at a point beyond the basing point, that it is unfair for the lines handling such traffic to connections at an interchange point beyond the basing point, to receive its full local rate to the basing point plus the same revenue that would accrue from the basing point proper to the interchange point (Tr. 5965-5966).

[fol. 1439] As we understand this contention, if the Missouri Pacific or Cotton Belt should handle a shipment of lumber from the Southwest to Thebes, thence via their own rails to East St. Louis, the total proportion point of origin to East St. Louis should be made independently of the divisions via Thebes, but if the Cotton Belt should elect to handle traffic to Thebes and deliver it at that point to the Missouri Pacific for movement to East St. Louis for subsequent delivery to a northern line, the total proportion up to East St. Louis could properly be arrived at by using agreed factors up to and beyond Thebes and subdivide the balance north of Thebes via East St. Louis on such agreed

percents as could be determined upon by the interested carriers. We fail to follow this line of reasoning. Manifestly the Cotton Belt would not, nor could it be expected to, surrender its lumber traffic destined to points beyond East St. Louis to the Missouri Pacific at Thebes for movement to East St. Louis, nor would the Missouri Pacific surrender to the Cotton Belt at Thebes lumber destined beyond East St. Louis. Both the Missouri Pacific and Cotton Belt have rails into Thebes and from Thebes to East St. Louis and certainly they are entitled to take into consideration the entire movement over their rails (Tr. 5966-5967).

On page 5724 witness Schmidt expresses the thought that in dividing the through rate of 27½ cents in effect on lumber from the Blanket Territory to Chicago as of June 24, 1918, the lines to East St. Louis should not have received their full local rate of 19 cents. His view is the lines to Thebes should have received full local rate to the base point, plus a reasonable division beyond the basing point, reasonable division being determined on facts. The present basis of merchandise percents which allow Thebes to East St. Louis 35 per cent and north of Thebes to Chicago 65 per cent have been in effect for a number of years and [fol. 1440] was determined on the basis of mileage (Tr. 5967-8).

What other facts should come into play he does not state, but as that basis, i. e., mileage, is generally the determining factor for divisions at points east of the Mississippi and north of the Ohio River, we fail to understand why the divisions on lumber which are based in the same manner as are divisions on all other traffic, should be singled out for different treatment. It is pointed out that on traffic to East St. Louis proper or to St. Louis, Mo., the Southwestern lines absorb switching charges necessary to effect delivery at the points of destination where the lumber comes to rest, but that no such absorptions are made on through shipments, and because of that condition it is his view the full local rate south of East St. Louis should not have been the measure of the revenue south of the interchange point. In this view we are not in agreement. The rates on lumber from the southwest to Ohio and Mississippi River crossings have always been primarily and principally propor-

tional rates applicable on lumber going beyond the crossings. The reason for this is perfectly apparent from the fact that the consumption of lumber in the large and very densely populated territory north of the Ohio and east of the Mississippi Rivers has necessarily been much greater than at the river crossings proper (Tr. 5968).

In fact it can be correctly stated that the lumber adjustment to the river crossings proper has at all times throughout its history been primarily a gateway adjustment. Again, the rates from the lumber mills served by the different southwestern lines to the river crossings are the result of severe competition. In other words, these mills have for [fol. 1441] many years been in competition with each other for the sale of their products at the river crossings and in the territory beyond and this competition between the carriers serving the various producing points in the southwest long ago resulted in what the Southwestern lines have always considered to be extremely low rates from the milling points in Missouri, Arkansas, Louisiana, Oklahoma and Texas to the Ohio and Mississippi River crossings. In addition, the adjustment to the river crossings has been influenced by competition with lumber from mills in Mississippi, Alabama, Georgia and other southeastern shipping points. It follows, of course, that the rates to the river crossings from the Southwest established under these circumstances are very low rates and, as stated, were designed primarily as proportional rates to apply on traffic to the consuming territory beyond the gateway crossings. With this explanation of the rate adjustment to the river crossings, we are in accord with the following statement made by witness Schmidt (Tr. 5968-5969):

"The full local rate south of East St. Louis should not have been the measure of revenue south of the interchange point."

Clearly Southwestern lines should have been allowed in division of the rates to Chicago as of June 24, 1918, in excess of their local rate (Tr. 5969-5970).

Cross-examination:

The mileages which I have said are based upon the decision in 33 I. C. C. were in the form of an exhibit filed in that case (Tr. 5970).

That case was tried about thirteen or fourteen years ago. The exhibit was prepared in September 1913. Any substantial shift in the points of major production would make a decided difference in the mileage. As I pointed out, it is my view that this production has moved to the south, and that, of course, would have a tendency to increase the average haul as shown on the exhibit. I simply gave routings on the lumber north of East St. Louis to Des Moines and Marshalltown and used three-line routes. Those are the [fol. 1442] routes over which the rates applied. If the traffic was delivered to the Burlington or Wabash in the nature of things, they would take it into Des Moines themselves, but if the shipper should decide to route via the junctions I have named, there would not be— (Tr. 5971).

The traffic checks put into the record would show the manner and routes over which the lumber actually moves. I did not use the short line mileages south because we used the southwestern blanket group as a whole. I used the average mileage in the southwest. That information was available, but I had nothing to show the average mileages beyond East St. Louis, although I would say that there would be so little difference between the average and the actual that it would not change to any substantial degree the mileage percents as shown on the statement (Tr. 5972).

From the blanket territory via Thebes and East St. Louis to C. F. A. territory the Cotton Belt division between Thebes and East St. Louis and the divisions to the C. F. A. lines is determined by using the June 24, 1918 local rates up to and beyond Thebes. Those local rates were converted into percents and the percent applied to the rates in the blanket territory. For the service from Thebes to East St. Louis we accept 4.2 cents on C. F. A. lumber. It varies according to destination on lumber to Illinois territory. Generally it is more than 4.2 cents but I should judge from the numerous cases where we get perhaps less than 4.2 cents—to Chicago, it is 5.1, but that is again from the territory north of Chicago where we got 3½ cents a hundred pounds. Most of our lumber goes to the Chicago territory (Tr. 5972-5973).

The only difference in the earnings on C. F. A. lumber and lumber to Chicago is the method of arriving at the [fol. 1443] proportion to C. F. A. territory. The 4.2 arbi-

trary represents an average of what we earned as of June 24, 1918, from Thebes to East St. Louis, but the 5.1 arbitrary that we get from Thebes to East St. Louis on Chicago traffic is less than we earned on June 24, 1918. In other words, it does not represent 35 per. cent of the proportion going to lines north of Thebes (Tr. 5974).

B. H. STANAGE was thereupon recalled as a witness and testified as follows:

Direct examination:

My rebuttal testimony will cover rebuttal by the Western Trunk Lines of evidence that I introduced at the Galveston hearing. On page 5703 of the record witness Grace referred to my Exhibit A-199, page 114, and made the following statement:

"The earnings received by use of W. T. L. proportional rates from Mississippi River crossings East St. Louis and north are only a portion of the earnings on the through traffic originating beyond" (Tr. 5974).

I do not agree with this statement, as, for example, on a shipment moving from Pittsburgh, Pa., to Des Moines, via the Erie Railroad, Chicago, Ill., Chicago & Northwestern Railway, Clinton, Iowa, and C. R. I. & P., the lines up to the Mississippi River are considered C. F. A. lines, and the lines west of the river are Western Trunk Lines. There are no through published rates in effect on this traffic; and in dividing the revenue on shipments moving as described, the lines west of the river (the W. T. Lines) receive their proportional rate used in making the combination rate. The proportion received for the haul east does not properly enter into the matter, as that haul is considered in C. F. A. territory. We have compared [fol. 1444] the earnings of the Western Trunk Lines on C. F. A. traffic with earnings of Western Trunk Lines on traffic to the southwest. I desire to add that the same line hauling traffic east of the river does not necessarily haul the shipment up to St. Louis or crossings north thereof and deliver it to any Western Trunk Line to handle west,

and for such service the Western Trunk Lines receive the factor used in making the through combination rate (Tr. 5975).

I have not understood that the application of these proportional rates to the river is dependent on the same line handling it through. I did not look it up to ascertain whether or not that was a fact.

Referring to my exhibit A-199, it was not true that in every instance the earnings of the so-called Western Trunk Lines were augmented by the so-called C. F. A. earnings. I contrasted the revenue for certain hauls of certain lengths in Western Trunk Line Territory on C. F. A. traffic to Western Trunk Line points with the earnings of Western Trunk Line roads on traffic interchanged with the southwestern lines. I did not, for instance, show the joint revenue on behalf of the so-called Western Trunk Lines for their service east of the river. The Western Trunk Lines would receive additional revenue for that haul if they shipped both east and west of the Mississippi River. Taking the Milwaukee Railroad for example. Hauling a shipment to the Mississippi River and then all the way through to Chicago, the earnings which I show in my exhibit up to the Mississippi River do not represent the amount of money that the Milwaukee actually receives for hauling the shipment from where it received it up to Chicago where it delivers it to the Eastern lines (Tr. 5976-5977).

[fol. 1445] On page 5704 witness Grace made the statement that "As to the comparison between the earnings of Western Trunk Lines east of Kansas City or St. Louis out of through rates to Oklahoma points and the earnings out of the proportional rates from Omaha and Des Moines to Cairo, no consideration was apparently given to the measure of the rates." My exhibit A-199, page 114, shows a comparison of the earnings of the Western Trunk Lines from Western Trunk Line territory to Oklahoma via Kansas City or St. Louis with the earnings from Western Trunk Line territory to southeast, C. F. A., etc., and while the measure of the proportional rates Omaha and Des Moines to Cairo (for beyond) may be relatively lower than the through rate Chicago to Oklahoma, at the same time the proportional rates Omaha and Des Moines to Cairo

are the proportions accepted on traffic to the southeast, subdivided via St. Louis, and represent the exact earnings of Western Trunk Lines on southeastern traffic as compared with the earnings on southwestern traffic (Tr. 5977-5978).

What we tried to show and have shown is that the Western Trunk Line earnings are as high or higher on traffic to or from the southwest as to or from other territories. On page 5727 of the record witness Schmitt made the statement that "There is nothing in witness Stanage's testimony, nor in the record, to enable one to determine what influences brought about the present basis for divisions." This refers to divisions on traffic to and from southern Missouri, and we cannot pass this statement without calling to the attention of the Commission the fact that there is an explanation in full of the influences which brought about the present basis of divisions. See testimony on pages 5457 to 5461; also my Exhibit A-199, pages 29 to 42 and page 97. These show the through rates were based upon combination and were divided as made. The Western Trunk Lines received as their division exactly what they originally requested to be added to the rates to or [fol. 1446] from the basing points in constructing the joint through rates (Tr. 5978).

On page 5729 Mr. Schmitt made the further remark, that "The southwestern lines had played one line against the other, the result in the end being that the revenue north on practically all classes of traffic, to and from this particular territory, is far too low." It is not a fact that the Southwestern lines played one line against another, and to prove this contradiction will call attention to the fact that the Illinois lines have for years insisted upon arbitraries east of East St. Louis and Thebes and have provided such arbitraries in their own issues, such as I. F. C. D/S 3 and 5. These arbitraries in the I. F. C. D/S No. 3 accord the lines north of East St. Louis, Kansas City, Mo., revenue. The Illinois lines have always advocated as their divisions a proportion of the Missouri River rate. The arbitraries in I. F. C. Division Sheet No. 5 have been in effect for a great many years. We have in our file Horace Tucker's (Chicago and St. Louis Traffic Association) proportional tariff No. 1, which indicates pro-

portional rates between Chicago-Milwaukee and East St. Louis, Thebes, etc., applicable on traffic to or from points in Eastern Arkansas and Southeast Missouri. I did not attempt to check back to the first issue, but they have been in effect for a great many years (Tr. 5978-9). On pages 5729 to 5730 Mr. Schmitt further stated: "It does not seem at all fair nor proper, as I see it, for the Southwestern lines to be allowed practically their local rates and the Western Trunk Lines the difference between such local rates and through rates." This remark pertains to divisions on traffic between Chicago and points in southeastern Missouri. In my Exhibit A-199, pages 29 to 42, I have given a history of these rates showing that the proportional rates east were added to the rates west of either East St. Louis, St. Louis or Thebes, and naturally [fol. 1447] the rates divided as made, that being the customary practice. The Western Trunk Lines are receiving the old factors increased and decreased in accordance with the general rate changes, and we feel, therefore, that the Western Trunk Lines are receiving what they themselves demanded and are not taking the balance—I do not mean that in this case. I favor making these divisions on the basis of a rate prorate north and south of the junctions of the rates which would apply if the through rate was not in effect. I make this point: I stated in all of my testimony the history of these rates and briefly stated, it is this. Dealing specifically, now, with classes and commodities from Chicago to points in southeastern Missouri, those are not published rates. They have only been in effect for probably 10 or 12 years as published joint rates, published by Chairman Leland, and also to some extent to destination territory in the issues of the destination lines, such as the Cotton Belt, Missouri Pacific and Frisco (Tr. 5979-5980-5981).

In publishing those joint through rates we combined the proportional rates to the river crossings from Chicago to East St. Louis and St. Louis with the local rates south, and we divided those rates the way we constructed them, as is the custom. Had we not published the joint through rates for the benefit of the shipping public the individual factors would have applied had any shipments moved, and the revenue of each line would have been based on the factor

that was in effect to or from the gateway where the traffic was interchanged. If there is no proportional rate north or arbitrary north, all that we have to make our through charge would be the local rate north. I do not advocate the theory of making divisions for application in this case where the through rate is not made by the application of our local rate south plus the proportional north, on the basis of the locals that go to make up the through rate which would apply (Tr. 5981).

[fol. 1448] I think we are justified in asking that the lines north of Thebes—I will stick to Thebes for example—that any rates based on the junction on Thebes should develop that way. After those rates are established for the lines north of Thebes to cancel their proportional rates to or from Thebes and then because of that ask for a readjustment of the divisions of the rates previously constructed by using their former factor, that is not proper (Tr. 5982).

If there is no proportional rate in effect, the local rate would be the measure of the division, but I am not advocating that rates based without regard to the combination should divide on the rate prorate. I am merely defending the history of these rates and divisions in connection therewith that I put in the record as against general statements that they are not fair, and things of that sort, which are not supported by probative facts. I am not dealing with lumber. My road hauls lumber, but I do not care at this time to express an opinion concerning lumber. I endorse what Mr. Lehmann said about lumber (Tr. 5983).

I was dealing with the question of the rates dividing as made and the fact that the lines north of Thebes, for example, were called upon to accept the balance. To the contrary, the southwestern lines are taking the balance. When the through rates to southeastern Missouri points were reduced to observe the Arkansas rates as a maximum, the reductions were taken care of in full by the Southwestern lines as the Western Trunk Lines insisted on their usual arbitraries to East St. Louis or Thebes.

On pages 5730 to 5732, inclusive, of the record, Mr. Schmitt stated that he had reached the conclusion that the present so-called proportional rates on Missouri traffic can be considered no differently than the so-called arbitraries

or differentials Chicago over St. Louis as published in all tariffs naming rates between Chicago and Arkansas, Texas, etc., and should not be considered the measure of the al-
[fol. 1449] lowance to the lines north of Thebes or East St. Louis, Ill. All this history of the proportional rates east of East St. Louis and Thebes cannot change the divisions of these rates as the rates are based upon a sum of two factors—one factor the proportion Illinois lines demanded and the other the local rate west, and that basis still exists (Tr. 5984).

The remarks on page 5732 that the proportional rates east should be considered "differentials", "and should not be considered the measure of the allowance to the lines north of Themes or East St. Louis, Ill.", cannot carry much weight in view of their being published and filed with the Commission in I. F. C. Tariff No. 506, W. E. Hosmer's I. C. C. No. 17 and later issues. It is the common practice for carriers to divide rates based by combining two factors, whether local or proportional rates, as made. In other words, each carrier receives as its division the rate or factor used in constructing the joint rates. It is true the Illinois lines would cancel these proportional rates, effective March 15, 1926, leaving only full local rates in effect, east, but, nevertheless, this cannot with any degree of reasonableness affect the divisions based upon the old proportional rates. On page 5733 the statement is made: "If on Texas, Louisiana and Arkansas the differentials are admitted to be too low for divisional application, the same situation should be applicable to Missouri." This is not true, as I have pointed out. These rates between Illinois territory and southeast Missouri are not based on differentials over St. Louis, but were based upon combination on the Mississippi River gateways. The rates were so published as through rates with the sanction of the Illinois lines, and divide as made (Tr. 5984-5985).

[fol. 1450] On page 5733 the statement is made: "The fact that these proportional rates are so materially less than the local rates proves conclusively in my opinion (witness Schmitt speaking) that they are not proportional rates literally, but merely arbitraries as stated, used in the construction of through rates to Missouri." These propor-

tional rates were the factors which were added to the Western rates to make through rates, and regardless of the relative measure of the same as against their full local rates, the Illinois lines must accept them in division. The proportional rates were promulgated by the Illinois lines and as previously shown have been accepted as their proportions. On page 5734 witness Schmitt stated: "The Illinois lines, generally speaking, in the past have never been consulted as to the rates to be published from Chicago." This is not a correct statement. The Southwestern lines have had concurrences from Illinois lines, also letters agreeing to the rates and divisions (Tr. 5986).

I did not attempt to burden the record with copies of letters agreeing to the rates and changes that we were able to check up in our files, but I merely wanted to mention at this time for the benefit of the Western Trunk Lines that General Freight Agent Lutz' file F-417-17-GG, dated Chicago, March 15, 1910, over sixteen years ago, requested that the Southwestern Lines instruct Chairman Leland to revise certain rates from Peoria which were at that time higher than the combination on Cairo or Thebes. We could have dug up several hundred references, and I have some that I will read later into the record, but I am not going at this time to attempt to quote all of them. I think the cancellation of those proportions became effective in March, 1926. I do not know how long they had the matter up. I do not think it [fol. 1451] took very long relatively. It takes several months to get any change considered and approved. However, the publication of those proportional rates is in the hands of the Western Trunk Lines themselves. The Southwestern Lines have nothing to do with it. The Missouri Pacific happens to be an Illinois line. I do not know whether it or the Cotton Belt objected (Tr. 5986-5987).

The Illinois lines were freely consulted concerning the publication of these rates, and there has never been any complaint filed against them by any Illinois line. It seems strange that the Southwestern lines have had in effect for the last twenty years published rates not concurred in by their northern connections; the matter now being considered for the first time.

On page 5735 witness Schmitt calls attention to statements I made concerning the proportions exacted south of

East St. Louis where the proportional rates from Chicago to Thebes, for example, are prorated via East St. Louis. He makes this statement: "The Frisco was not a party to the tariff naming these arbitraries to or from Thebes, yet it has exacted, as the exhibit indicates, 35 per cent of a rate in which they do not participate, nor do they handle traffic through the base point." In the first place, his case does not involve any particular line, and my Exhibit A-199, pages 29 to 41, shows the basis for all Illinois lines and all Southwestern lines, including the Frisco. The divisions up to East St. Louis on traffic routed via the Frisco have been and should be the same as via other lines competing for the traffic. When the Frisco meet the rates of the Thebes route lines through East St. Louis, they are entitled to the same proportions as such Thebes route lines—no more and no less (Tr. 5988-5989).

If the Frisco demanded a greater proportion, the Illinois lines would not join them in the competitive rates. If they [fol. 1452] accepted less in meeting the competitive rates, it would simply mean that the Thebes route lines would meet the divisions thus established by the Frisco. As can be seen, the Frisco simply met the rates and divisions applying via routes such as via East St. Louis, M. & O., Illinois Central, Missouri Pacific and Cotton Belt through Thebes, and there certainly can be no reasonable objection from any line to establishing divisions on a uniform basis through the same gateway via all lines. These are not theoretical divisions. They are actual divisions and were concurred in by Illinois lines. We get this business from the lines at East St. Louis or deliver it to them, and we exact and apply the same divisions as though it moved via the East St. Louis route lines to or from East St. Louis. The C. B. & Q. Railroad authorized 65 per cent of Thebes arbitraries via East St. Louis and the Frisco, and other lines in their division sheet No. 9 for C. B. & Q., G. F. O. No. 6382-F, which is their number on Southwestern Lines Tariff No. 68, and this has been effective since November 1, 1915. A similar basis has been in effect for years via other lines (Tr. 5989-5990).

We have letters from the Illinois lines, specifically concurring in the basis of 65 per cent of the Thebes arbitraries

on traffic to Southeast Missouri. In support of that statement I want to detail into the record the file references covering a few. I will just mention the railroad and the general freight office file number, what railroad it was addressed to, and the date, just in order that the Western Trunk Lines might check up my information and see if it is correct.

[fol. 1453] The Witness (reading):

Letter from	Addressed to	Date.	File No.
C. & A. R. R.	Mo. Pac. Ry.	11/ 9/14	D-36630-VV
C. & A. R. R.	St. L., I. M. & S. Ry.	12/17/14	D-40904-VV
C. & A. R. R.	St. L., I. M. & S. Ry.	2/10/15	A-36651
C. & E. I. R. R.	Mo. Pac. Ry.	3/19/15	985-Mo. Pac.
Mo. Pac. Ry.	C. & A. R. R.	8/19/16	C-2784
C. & A. R. R.	Mo. Pac. Ry.	8/23/16	D-36651
Mich. Cent. R. R.	Mo. Pac. Ry.	3/27/17	
Wabash Ry.	Frisco Ry.	3/30/17	P-11713
C. & E. I. R. R.	Frisco Ry.	12/18/17	341-374-BU

(Tr. 5990.)

I wish to read into the record one letter in detail. It is a letter from Chief of Tariff Bureau J. A. Behrle of the Chicago & Alton Railroad Company, dated Chicago, Ill., November 9, 1914, his File D-36630-VV, addressed to Mr. W. H. Alexander, Assistant General Freight Agent, the Missouri Pacific Railway Company, St. Louis, Mo.

"With reference to Division Sheets issued by your company in connection with Southwestern Lines Tariff 68-Series, the rates in this tariff we understand are practically all constructed on the East St. Louis, St. Louis or Thebes combinations, and we are willing to divide these rates as made with a proviso that your company accept your local rate south of East St. Louis as a maximum.

"Will you please advise if you will issue division sheets to this tariff on this basis, advising.

"Yours truly, (Signed) J. A. Behrle, Chief of Tariff Bureau."

There is a letter almost twelve years old where they sought to establish a basis of rates and to divide them. I [fol. 1454] could have brought hundreds of similar illustrations dealing with specific rates, covering tariffs in general, and I have got others here, but it is useless to detail them all into the record (Tr. 5990-5991).

I just want to comment on one from Mr. T. O. Jennings of the Chicago & Eastern Illinois Railroad to Mr. W. B. Knight of the Missouri Pacific, in which he asks that the Missouri Pacific division basis No. 3586-A to Missouri Pacific Freight Tariff No. 2258-Series be revised on account of some changes in the proportions so as to reflect the present combination basis.

On page 5736 witness Schmitt comments upon the relative proportions of joint through rates received by the Western Trunk Lines and the Southwestern Freight Bureau lines calling attention to the larger proportion accruing to the Southwestern Lines. The percentage comparisons of divisions to Poplar Bluffs and Campbell as representative of Southeastern Missouri shown on page 2 of Witness Schmitt's Exhibit A-250 do not prove that the Western Trunk Lines are receiving insufficient revenue, as we have already explained that the proportional rates, which were their divisions, in effect June, 1918, have been increased and decreased to correspond with the general changes in the through rates (Tr. 5991-5992).

The greater percent of increase in the division of the southwestern lines is the result of increases in the factors west of the river under the 9702 scale. The percentage of increase East St. Louis to Thebes is shown as 67.3 per cent. This should read 53.7 per cent, as naturally there can be no great difference in the percent of increase in this proportion as compared with the percent of increase Chicago to East St. Louis, as the total proportion to Thebes has always divided on basis of 65 per cent north and 35 per cent south of East St. Louis.

The comment of witness Schmitt in connection with pages 3 and 4 of his Exhibit A-250 as divisions being unfair to [fol. 1455] lines north based upon ton mile earnings does not indicate the divisions are unfair as we have previously shown the divisions accruing to the Illinois lines is of their own making. We gave the Western Trunk Lines the factor which we used for their account in constructing the joint through rates.

On page 5737 witness Schmitt read into the record extract from the opinion of the Interstate Commerce Commission in Docket 11825. I wish to make this observation concerning that quoted portion. That referred to a case involving

divisions between the Chicago & Eastern Illinois and the Frisco via Chaffee, Mo., and dealt with the divisions on coal. The divisions on coal via Chaffee have not been brought into issue in this proceeding by the Western Trunk Lines, and the portion of the Commission's decision which he quoted is not, in my opinion, applicable to other than the specific commodity dealt with by the Commission (Tr. 5992-5993).

The comment by witness Schmitt on pages 5737 and 5738 regarding pages 5 and 6 of his Exhibit A-250, corresponding with page 42 of my Exhibit A-199, in my opinion indicates that in cases where rates make on Thebes combination these rates divided as made and where it was necessary for the southwestern lines to observe a lower than combination rate, they did so and allowed Western Trunk Lines their full rate factor, placing the full shrink upon the southwestern lines. The comparative length of haul has nothing to do with the divisions under the circumstances. Those pages of Exhibit A-250 dealt with the subdivision of the revenue on the so-called 9702 commodities; Witness Schmitt calling attention to what he termed the disparity of revenue return in instances where our proportions west of Thebes were based on the 9702 decision and yielded a substantially greater revenue return per mile and per ton mile because of our shorter hauls than the proportional rates which the lines north of Thebes had in effect and which were used in constructing the joint rates from Chicago to points in south-[fol. 1456] east Missouri or canned goods and other commodities dealt with in the 9702 commodities decision.

We take the position that those comparisons have no bearing, because had we not published the combination basis for the convenience of the shipping public they still would be getting their lower proportions relative than we would earn (Tr. 5994).

Commenting further on that exhibit, witness Schmitt on page 5738 of the record made the statement that "there is no agreed basis of divisions" on this traffic. We cannot agree with this statement. Our previous testimony shows clearly that there is, and the Illinois lines are now attempting to repudiate the basis. I say that there is an agreed basis of divisions published in a division sheet. We have got individual division sheets and then we have the Illinois

Freight Committee 506 that has been used as a division sheet ever since it has been issued, except subsequent to the time when the sheet was cancelled on filing with the Commission. Now the Illinois Freight Committee lines repudiate it (Tr. 5995).

Prior to the cancellation of the proportional rates they used the proportional tariff as a division sheet. Subsequent to the cancellation of that issue, some of the Illinois lines have taken the position that the divisions are in dispute. Where the proportional rates were in effect, both lines applied it as a division. It has been used for fifteen years, to my personal knowledge. It never was questioned.

In connection with the record, page 5738, concerning page 97 of my Exhibit A-199, which states the basis for the through rates to Cuba, Mo., and other points covered by Frisco tariff 1298 I. C. C. 8005, the addition of the 54 cent scale (Kansas City revenue) on 1st class north of East St. Louis combined with the local rates west in making the through rates, was published specifically several years ago, and while we do not have the old authority files for us at this time, we have no record of any objections from the [fol. 1457] Illinois lines. The rates were published by the Frisco in connection with all lines under proper concurrence form, and we have no record of the Illinois lines objecting, as I previously stated. As a matter of fact, simultaneously with the establishment of through rates to these Missouri points, the Illinois lines amended their division sheet No. 3 and added, Cuba, Mo., and other Missouri points, indicating specifically that the specific divisions shown therein were agreeable to them, and we feel that this indicates concurrence in full (Tr. 5996-5997).

The Chicago, Burlington & Quincy Railroad, by letter dated September 25, 1925, file 900, asked that we provide rates from Clinton, Iowa, on the Chicago basis, they agreeing to accept Chicago divisions. The Chicago divisions are the specifics shown in Illinois Freight Committee Division Sheet No. 3. This is another instance of where the Illinois lines have specifically concurred in the rates and divisions which we published. The Burlington in this instance indicated willingness on their part to extend the Chicago basis to other points.

On page 5740 witness Schmitt makes the following remarks concerning page 98 of my Exhibit A-199: "Allowance

Chicago to East St. Louis on New York, St. Paul, Buffalo, etc., reflects an actual mileage prorate, so the comparison made is not at all pertinent." It is hoped that the Commission will carefully examine this exhibit. This page of Exhibit A-199 shows a comparison of the Western Trunk Lines' earnings on southwestern traffic versus what the Western Trunk Lines earn on traffic to or from other territories. We feel that irrespective of how the divisions to or from other territories are made, these comparisons are pertinent to this case, as the exhibit shows conclusively that the Western Trunk Lines' earnings derived from southwestern traffic are relatively higher than on other territorial traffic (Tr. 5997-5998).

[fol. 1458] We have shown on the page indicated that in connection with southwestern traffic the earnings to Western Trunk Lines exceed their earnings on traffic handled from and to other territories for identically the same character of service. In connection with witness Schmitt's comments concerning the data shown on page 8 of his Exhibit A-250 it is my intention to reply to his comments separately as to each commodity considered. We found what we thought were errors in some of the figures on this sheet, and in order that the Commission might have before it information as to our understanding of the correct data we have reproduced page 8 of witness Schmitt's Exhibit A-250 showing our understanding of the correct figures, substituting Cedar Gap, Mo., instead of Marionville in his examples showing the rates and divisions on apples from Missouri points to Chicago. I offer the statement in evidence (Tr. 5998).

The statement described by the witness was received in evidence as Exhibit A-288.)

[fol. 1459] I will leave that subject with the explanation of our understanding of the basis for rates and divisions on these commodities shown on this exhibit. Broom corn. The comments I shall make deal with the data shown by Mr. Schmitt as compared with what I understand the figures to be. On broom corn the proportion of 20.4 cents beyond East St. Louis is in error, both in Exhibit A-250 as well as Exhibit A-199, page 116, 6th item, and should be corrected to read 15.5 cents. *According to our records the*

proper figure is 15.5 *cents.* According to our records the proper figure is 15.5 cents which is the old 10-cent rate East St. Louis to Chicago territory point, such as Paxton, Arcola and Sullivan, Ill., which are the real consuming points of broom corn, increased and decreased by general rate changes. The various lines' tariffs show that in making through rates from Southwest to Chicago an arbitrary of 15.5 cents will be added to the St. Louis rate. To bear out our statement I will cite reference to the rate of 16 cents East St. Louis to above-named Illinois points in items 450 and 455 of Chicago & Eastern Illinois Railroad Tariff No. 600-A, I. C. C. No. 165. The difference in the 16-cent rate east and the 15.5 cent arbitrary is the result of disposition of fractions and the 5 per cent advance in Illinois rates which was not taken up in the through rates (Tr. 5999).

This indicates that Illinois lines receive 97 per cent of their local commodity rates as compared with Southwestern lines' 90 per cent of their local rates, first deducting the bridge toll. The Illinois lines recently cancelled the 16-cent rate East St. Louis to Chicago territory points, effective April 25, 1926, but this does not change the comparative feature as the through rates were made on the basis indicated, that is, Illinois lines adding 15.5 cents to the local rates to St. Louis; and it is only the cancellation of the commodity rates east that makes it possible for the Illinois lines to point out what appears to be glaring reductions in their revenues as compared with their existing [fol. 1460] class locals. The 16 cent local rate shown on broom corn is not now in effect. I have not the through class rate. My point is this. We established the rates we are defending on a definite basis having regard to certain arbitraries required by our connections. I use that word "arbitrary" as meaning a factor to be added to some other factor to construct a through rate and then dividing as they make them (Tr. 5999-6000).

In referring to defending rates, I meant divisions. It is true that we have cancelled out the commodity rate on broom corn from East St. Louis to Chicago, possibly due to no movement, because there is none produced at East St. Louis, and we are comparing a showing of figures that are indicated on this exhibit based on the factor which was contributed by the East St. Louis-Chicago lines when

the joint rates were constructed to show the relation of that factor to your local rate on the commodity at that time and our local rate on the commodity at that time. That is the only instance I can recall where we cancelled out the rate.

I will next deal with the rates on butter, eggs and poultry on this exhibit. The local rate north of East St. Louis is 53 cents, the full third class, subject to a minimum weight of 20,000 pounds. The local rate west of St. Louis is 69 cents, a commodity rate, subject to a minimum weight of 10,000 pounds. The third class rate on the lines west is 76 cents subject to a minimum weight of 20,000 pounds (Tr. 6001-6002).

The percent of the local rate west is shown as 62 per cent, but should be 61.7 per cent based upon use of proportion west of East St. Louis, 51.9, from which should be deducted 6 cents terminal bridge, making net proportion 46.9 cents compared with the local third class rate of 76 cents, which figures 61.7 per cent. We have used here the third class rates both east and west of East St. Louis, as it is not proper to compare the class rate east with the [fol. 1461] commodity rate west. The through rates on dairy products in Western Trunk Line Tariff No. 18, Agent E. B. Boyd's I. C. C. No. A-1357, applying from Missouri, Kansas and Nebraska points to Chicago, etc., were originally based 15 cents under the third class rates with the Kansas City rate as a minimum. The rates so made were increased and reduced under the general changes and also were subject to a revision so far as interstate rates were concerned in line with the advances made in the second, third and fourth class rates from the Missouri River under I. C. C. Docket 12709. Under this adjustment the third class rate from Kansas City to the Mississippi River was advanced from 53½ cents to 60½ cents. Adhering to the basis and to avoid 4th section violations from points south and west of Kansas City, the rates on dairy freight were advanced to the Kansas City rate as a minimum, and the Chicago rate being the third class differential of 15.5 cents over Mississippi River (Tr. 6002-6003).

All of these rates are legislated through the medium of the Western Trunk Line Committee, who also issue the tariffs. The 69-cent rate was a commodity rate. We did

not compare that commodity rate west of the river with the class rate east, because we contend that that kind of a comparison is not proper. We compared our class level west with your class level east. The joint through traffic is based on a differential under the third class. The 69-cent rate is an effective commodity rate, but I have inserted the class rate. As I stated before, we have compared in making our percentage of the through rate, the percentage of each line's local. We have compared class rate with class rate, and not class rate with commodity rate (Tr. 6003).

[fol. 1462] I think that a comparison of the commodity rate north and south is all right. We used that in the broom corn case. We used commodity with commodity wherever we had it. But the lines north in the broom corn case cancelled their commodity rate. In that instance we used the former factor which was the old commodity rate—commodity rate with commodity rate. The earnings I show for the Southwestern Lines are up to St. Louis. In other words, we have compared our net factor in addition with the Western Trunk Line's net factor in addition. There are no bridge tolls in all of these cases. I did not compare the Chicago switching absorptions with the bridge situation. I would not say that it is not a legitimate reduction unless it is a bridge toll, but those two are not comparable (Tr. 6004).

Both of those absorptions cost money, but the Chicago switching absorption involves a competitive situation. If I were going to make such a comparison, I would also take in the points of origin. We do not get the bridge tolls back. It is not reciprocal in any sense.

Examiner Disque here said that he did not see why the bridge charges should be deducted any more than the charge for hauling stuff over a mountain. That in one case the money was paid to another corporation and in another case out of the carrier's own pocket. That is money gone in either case. To which the witness replied that the bridge toll was paid charges for the haul over the bridge and that it should be deducted because it was paid to a third railroad.

Mr. Muckley: You are trying to find some comparable basis between their revenue and others?

The Witness: Yes, sir; that is the reason (Tr. 6005).

[fol. 1463] If there is any situation where lumber for example were moved via the Missouri Pacific up the east side and given to the Terminal at East St. Louis to go to Des Moines, Iowa, and the Wabash takes it north, I think the allowance made in that case might well be deducted.

I will now deal with lime, the third item on Exhibit A-288. We are unable to check the local rate beyond East St. Louis of 14 cents as shown by witness Schmitt, but find a commodity rate of 12½ cents, C. & A. tariff No. 13000-J, I. C. C. No. 1669-J, from Alton, Ill., which is an East St. Louis rate point; and if there was a movement from St. Louis-East St. Louis this 12.5 cent rate would undoubtedly be published therefrom, which indicates a division of 10 cents beyond East St. Louis would represent 80 per cent of such local.

The following statement by Attorney Towner is copied verbatim from the transcript of testimony:

Of course I cannot testify—although I have been doing it continually; I recognize my limitations in that respect—but I am advised that that 14 cents is contained in Chicago & Eastern Illinois Tariff I. C. C. 158 now on file with the Commission; and without disputing your statement that you could not find a rate, would you mind checking that between now and tomorrow and let us find if that rate of 14 cents is correct? I have constitutional objections to having a rate from Alton applying from East St. Louis applied to traffic from Chicago (Tr. 6006).

(An informal discussion of the record followed this statement.)

I next deal with spelter, the fourth item. The figures are correct except that the proportion west, of 17.7, includes 2 cents bridge, making the net proportion west 15.7 or 89.7 per cent of the local rate. This makes a change in the ton mile earnings to 9.4 mills. The Southwestern Lines now [fol. 1464] get 17.7 cents, and their local rate is 17.5 cents, their division being .2 of a cent greater than their local rate. I arrive at the fact, with my statement that the division is

only 73.8 per cent of the local rate, by deducting the bridge toll from the 17.7 factor. If I did not deduct the bridge, our division would be slightly over 100 percent of the local rate. The rates on spelter were based on a factor which the lines north of East St. Louis agreed to accept. The Burlington was the first line to name a factor of 5 cents north of East St. Louis to the Illinois smelters (Tr. 6007).

It started first on ore. They named that low factor on ores north of East St. Louis to induce the movement of the Joplin zinc ores to their smelters so they would get the outbound product and build up their section. They named that outbound factor and we constructed the joint through rates by adding our factor of what we wanted. The division is now 6.3, but when you look at your earnings per ton mile of 4.5 against our 9.4 it pays to bear in mind the history of these divisions and the present rates. They were established years ago, and because of that situation or condition that you folks got into with your eyes open we are now criticized because our revenue return happens to be a lot greater, relatively so, considering relative service. The data I gave a moment ago concerning the movement of lime, shown in the third item, also applies to the fifth item of Exhibit A-288. The rate is in the same C. & E. I. tariff heretofore referred to.

I will next take up tripoli, the sixth item on this exhibit (Tr. 6008).

The figures on page 8 of witness Schmitt's Exhibit A-250 are correct, except that in figuring the percent of local rate assessed he should have deducted 2.2 bridge from the proportion of 14.2, making a net proportion of 12 cents or 72.7 [fol. 1465] per cent of the local rate instead of 86 per cent. Low commodity rates are necessary on this commodity to permit a free movement in competition with silica from Illinois and Nebraska. After a good deal of controversy involving these rates in I. & S. Docket 1862 the Southwestern lines approved a rate on tripoli of 16½ cents to St. Louis and made it effective June 25, 1924. This rate was made to compete with other commodities of similar character. In due course the Western Trunk Lines published rates to Chicago territory on basis of 7.5 cents class C differential over St. Louis, resulting in a rate of 24 cents now

effective. The June 24, 1918, rate was 19.5 cents to Chicago. The Illinois lines approved a basis of percentages under which the lines beyond East St. Louis receive 4.1 per cent, first deducting bridge. These same lines handle silica from Tamms, Ill., to Chicago at a division of 64.9 per cent of a rate of 13 cents, or 8.4 cents per 100 pounds, and we feel that as this is a highly competitive commodity the Illinois lines should be willing to reduce the present division to a basis of 8.4 cents on tripoli from Missouri points (Tr. 6009-6010).

In other words, on our tripoli they require 12 cents north of East St. Louis while requiring 8.4 on tripoli from Illinois points. From the Missouri points, Springfield, Missouri and west, the local rates to St. Louis and East St. Louis are the same. In those cases where that situation exists, and I deduct the bridge toll in figuring the divisions, I am not setting up a theoretical local rate to East St. Louis-St. Louis plus the bridge.

I will next take up apples. The election of Marionville, Mo., as representative of the adjustment of divisions from Missouri points is not consistent, as the rates from that point were put on the Rogers, Ark., basis to Chicago of 55 cents to comply with the 4th section. This rate is higher than the through 5th class rate of 49.5 cents and also in excess of St. Louis combination, which figures 23 cents plus [fol. 1466] 21.5 cents, or 44.5 cents. In addition to this, Mr. Schmitt's figures are in error. He shows his local or 27.5 cents, but the correct figure is 21.5 (Tr. 6010).

Other errors exist, but as above explained the example should be stricken out. A more fitting point to select would be Cedar Gap, Mo., to Chicago. Cedar Gap is one of the largest apple producing points in southern Missouri. Using this point the figures shown on Exhibit A-288 reflect the proper situation. I check the rate north of East St. Louis which Mr. Schmitt shows as 27½ cents to be 21½ cents. I got that from Boyd's I. C. C. A-1620. But my file does not indicate whether it is a class or a commodity rate (Tr. 6011).

I do not know whether that is the Illinois maximum scale. I know that we got the rate out of the tariff on file with the Interstate Commerce Commission, which, as I understand it, was not confined in its application to intrastate traffic. In other words, it was interstate tariff. I did not check

it to find out whether that was the fact; but it was checked under my direction by a very competent man.

The rate is not the same from Cedar Gap, Missouri as from Marionville. So that it would necessarily follow that there is a difference between my results and Mr. Schmitt's results. His example did not look properly representative. There are several inherent defects in it, and we picked out one that we thought was representative. That is all. I am not finding any fault with his example otherwise, other than it does not mean anything. That is the local point on the Frisco, right in the heart of the Ozarks.

Q. With reference to the eighth item, butter, the figures appear to be correct from Willow Springs, Mo., to Chicago, but Mr. Schmitt has used his third class local of 53 cents in comparing the divisions to the locals, but for the southwestern lines he uses a local commodity rate of 63 cents while he [fol. 1467] should use third class rate of 79, comparing the class rate west with the class rate east. The corrected data is shown on Exhibit A-288.

By Mr. Towner:

Q. Let me ask you one question on that. If you had a shipment of butter from Willow Springs to St. Louis, what would the rate be on that—63 cents or 79 cents?

A. 63 cents.

By Mr. Larimore:

Q. Have you a commodity rate east?

A. No, sir (Tr. 6012-6013).

The next items refer to roofing, prepared roofing. We checked the correct through rate as 36 cents from Chicago as published in Leland's I. C. C. 1795, instead of 34 shown by Mr. Schmitt, and we have likewise checked the Western factor local rate as 28 cents instead of 26, published in the same Leland tariff. In connection with the canned goods items we checked the through rates 49½ cents instead of 41½ and the factor west of St. Louis 31½ instead of 26½, published in Agent Boyd's I. C. C. A-1357. This issue likewise names rates on some of the other items shown on Exhibit A-288 (Tr. 6013-6014).

In connection with the last item, tin cans, we have shown in Exhibit A-288 what we understand the correct basis to be. The Commission in I. & S. Docket 2107 approved rates higher than 4th class rates on this traffic—tin cans are classified 4th class—on account of lower minimum weight of 12,000 pounds applying to the commodity rates as compared with regular classification minimum weight of 14,000 pounds. Provision is made in I. F. C. Division Sheet No. 3 to the effect that where commodity rates are established the rates will divide on a revenue prorate, using class rates and divisions as factors. Inasmuch as the commodity rate in this case is higher than 4th class, the Illinois lines receive in excess of their fourth class arbitrary of 19 cents. This is proper, as in instances where commodity rates are established they are generally lower than the class rates on [fol. 1468] that commodity, in which case such lower commodity rates divide on a revenue prorate basis, using class rates and divisions as factors. On page 5741 of the record witness Schmitt makes several remarks concerning the data shown on pages 100 to 111 of my Exhibit A-199 which would give one the impression in reading the record that at present the C. F. A. lines are being allowed full locals east in the division of through rates based differentials over St. Louis, but a review of the pages in question will show that this is not the case (Tr. 6014-15).

Take, for example, page 105 of my Exhibit A-199, the first class rate Detroit to Tulsa is $2.435. The differential over East St. Louis is 68.5; the division to East St. Louis is 72.5 or 72.1 per cent of the local rate, Detroit to East St. Louis, and 105 percent of the differential. The local to East St. Louis is $1.005. The division west is $1.71, or 97.7 per cent of the local. In comparison with the above we will take the first class rate Chicago to Tulsa. Through rate, $2.05; differential over St. Louis 30 cents; division to East St. Louis 54 cents, which is 88.3 per cent of the local rate and 180 per cent of the differential. The local to East St. Louis is 79 cents; the division west is $1.51 or 86.2 per cent of the local. The above figures show the C. F. A. lines receive 72.1 per cent of their local and the allowance is 105 per cent of the differential. The Chicago lines receive 68.3 per cent of their local, but this is 180 per cent of the differential added to the rate. This indicates that the Southwestern lines must

make a greater shrink in their revenue on Chicago traffic than on C. F. A. This is clearly indicated by the comparison of Southwestern Lines local rate with their earnings on this traffic. On C. F. A. traffic the percent of local west is 97.7 per cent, while on Chicago traffic it is but 86.2 per cent (Tr. 6015-6016).

[fol. 1469] On page 5742 witness Schmitt referred to divisions on strawberries covered by my Exhibit A-199, page 159. He also mentioned his own Exhibit A-250, page 11. I have already shown on page 156 of my exhibit that the original joint through rates on berries from Southwestern producing points to Chicago, using representative illustrations, were based on combination of rates on East St. Louis, the factor north of East St. Louis being 118 per cent of the third class rate East St. Louis to Chicago. For example, the rate Ft. Smith to Chicago was 80 cents per 100 pounds in Frisco I. C. C. 6081, effective during 1906, and was based on the local rate of 59 cents to East St. Louis plus 21 cents beyond, and divided as made. Later, as shown on pages 117 to 123 of Exhibit A-199, the Western Trunk Lines agreed to divide the rates in effect in 1913 on basis of an average of the third class rates to Kansas City or East St. Louis and actual third class rates east as factors. This same basis of rates has been perpetuated simply increasing and reducing the rates in accordance with the general changes authorized since 1918. The divisions were likewise continued on the old approved basis subject to the same measure of increase and decrease made in the through rates (Tr. 6016-6017).

It is needless for me to comment concerning Mr. Schmitt's general remarks as to divisions on peaches. I outlined in my direct testimony, pages 5482 and 5483, the basis for the present rates which explain the differences in earnings for the Southwestern lines and Western Trunk Lines. A general reference to the result of the application of the divisions as made by him in the light of our complete explanation as to the basis and reasons therefor, surely cannot have much weight. Mr. Behrle in mentioning rate level comparisons called attention to the Mason City brick deci-
[fol. 1470] sion and contrasted the level of the rates thereunder with the rates on brick as result of the Commission's decision in I. C. C. Docket 14617. In my opinion, the Com-

mission's decision in the latter case does not properly reflect the rate levels on brick in the southwest. Their decision I think was influenced to a large extent by the low State rates in effect throughout the southwest. There is this further comment, that the Mason City scale is the same for single and joint line hauls, while under the southwestern decision joint line hauls are based on a differential of one cent over the rate in effect for single line hauls (Tr. 6017).

Furthermore, in the Mason City decision the 80 per cent basis on common brick was authorized, while in the southwestern decision that basis has been eliminated. I mean that there the common brick takes the full scale. In other words, there is no differential under the standard scale for application on shipments of common brick. Common brick takes the same rate as other brick. Common brick is the big volume of movement of that traffic in the southwest. It moves for shorter distances, distances under 200 miles, depending upon the territory. That constitutes the largest volume of the various classes of brick. Furthermore, these rates on brick as set by the Commission are among the lowest rates that we have in the Southwest. I cannot say that is because they are almost the latest rates the Commission has set for us. I agree with the Commission that the so-called common brick movement in the Southwest is not, generally speaking, of the character intended to be covered by the definition of common brick in the general brick case. I have always thought that (Tr. 6018-6019).

[fol. 1471] R. C. Trovillion was recalled as a witness and testified as follows:

Direct examination:

Mr. Grace's exhibit No. A-243, presented at the Chicago hearing deals with divisions on class rates from Chicago, Ill. to various points in Oklahoma, via Kansas City. Neither the exhibit itself nor the testimony offered in explanation of it makes any claim as to any substantial movement of traffic from Chicago to Oklahoma on classes. It is certain that little or no traffic moves on class rates from Chicago

or from Chicago territory to Oklahoma. The present basis of divisions on this class of traffic does not materially affect the revenue of the Western Trunk Lines. There is no movement northbound from Oklahoma to Chicago territory on the class rates that I know of (Tr. 6019-6020).

The important thing to remember in connection with this exhibit is that the deliveries northbound to the Western Trunk Lines at Kansas City exceed the southbound deliveries by a ratio of two or three to one, and that practically all of the northbound business from Oklahoma, at least in excess of 95 per cent of it, divides on special bases, and not on these merchandise percents. The same criticism applies in connection with Mr. Grace's Exhibit No. A-244. Additionally, it should be observed that all five destinations shown in this exhibit are reached via direct lines from St. Louis to Oklahoma—That exhibit covers divisions on class rates from St. Louis to Oklahoma points via Kansas City. That is it shows the divisions east and west on traffic originating at St. Louis. The haul from St. Louis to Kansas City, being in Western Trunk Line territory and the haul from Kansas City west being in Southwestern territory (Tr. 6020).

[fol. 1472] Woodward via the M-K-T; Muskogee via M-K-T, Frisco; Oklahoma City via M-K-T, Frisco, Rock Island; Enid via Frisco, Rock Island, and Ardmore via the Frisco and the Rock Island. Therefore, traffic from St. Louis to Oklahoma via Kansas City for those points would be negligible. There might be a movement from interior points taking St. Louis rates, but in that case the local rate to Kansas City would in all probability be less than the St. Louis-Kansas City rates shown on this exhibit, and the distance would be shorter. In Mr. Grace's exhibit No. A-245, he shows divisions on agricultural implements and automobiles to various points in Oklahoma. On automobiles there is no different situation than his exhibits A-243 and A-244 show, because the through rate on automobiles from Kenosha, Wis., to Oklahoma, as well as the factors to and from Kansas City are on the full first class basis. On agricultural implements, however, the same objection is present in using a rate prorate between two different rate territories as commented upon in my testimony at the Galveston hearing. The through rate from Chicago to Oklahoma City, for

an illustration—on agricultural implements—is $1.025. This is the commodity rate (Tr. 6021).

The exhibit shows what a rate prorate would earn and shows the factors north and south of Kansas City used in arriving at a rate prorate. The local north of Kansas City is the Chicago-Kansas City rate, and on agricultural implements is the full class "A" rate of 48 cents. The local rate from Kansas City to Oklahoma City on agricultural implements, carloads, is 64 cents; the class "A" rate is 73 cents. Naturally an exhibit of this kind will make a favorable showing for the line whose local is on the full class basis. Note also that a mileage prorate would give the lines north of Kansas City 121.1 per cent of their local rate. Mr. [fol. 1473] Grace's exhibit No. A-247 is offered in rebuttal of my exhibit A-226, and deals with divisions on cottonseed meal through East St. Louis and Kansas City. The criticism of my exhibit A-226 was based on the fact that I had used proportional rates in making my comparisons. I used proportional rates because those are the rates upon which the business moves. If there had been proportional rates from the southwest to Kansas City or St. Louis, I would have used them. An exhibit showing a rate prorate that is not based on the rates which move the business is of no value. It is a fact, as stated by Witness Grace, a basis of divisions was worked out via Kansas City on cottonseed cake and meal from Oklahoma to certain Western Trunk Line territory. The basis did not serve to change the old arrangement materially, however, because under the block system worked out, the lines beyond Kansas City receive their proportional rates as a maximum in practically every case as shown in my exhibit A-226. This was the basis in effect before the new agreement was made (Tr. 6021-6022).

In connection with Mr. Grace's exhibit A-248, he comments on the fact that the lines from Oklahoma City on packing house products and fresh meats receive to Kansas City divisions in excess of their local rates. The local rates from Oklahoma City to Kansas City on fresh meats is 39½ cents; on packing house products 26 cents; so that Mr. Grace's statement is not true in connection with the fresh meats from Oklahoma City to Kansas City on shipments destined New York or other eastern points. He attempts to justify compounding of divisions on eastern traffic

through the Mississippi River gateways by showing that traffic moves to New York from Oklahoma City via Kansas City thence to and through East St. Louis, thence to Chicago. Practically all of the fresh meats and packing house products originating at Oklahoma City and destined Chicago and eastern territory do not move as shown by him but are handled via the M-K-T to Kansas City and the C. & A. beyond. The fact that the lines from Oklahoma City to [fol. 1474] Kansas City receive more than their local rates to Kansas City does not necessarily show that their divisions are excessive on this traffic for the reason that the rates on packing house products and fresh meats from Oklahoma City to Kansas City are absurdly low (Tr. 6023).

While it is not the desire to go into detail as to the history of these rates, it is important, I believe, to call attention to the fact that the present rates are depressed to Kansas City by reason of the Commission's decision in the so-called 1716 case, 22 I. C. C. 160. This case involved among other things fixing competitive rates from Oklahoma City and Fort Worth to Kansas City, versus Wichita, Kansas. At the time this case was considered, which was in 1911, the rate on packing house products from Wichita, Kansas, to Kansas City, Kansas-Missouri, was 12 cents; on fresh meats 16½ cents. There were repeated efforts made to advance this rate, but it could not be done due to certain Wichita-Kansas City lines maintaining the adjustment, and due to the further fact that the rate from Wichita, Kansas, to Kansas City, Kansas, was a Kansas State rate, and under the Kansas laws a rate cannot be advanced without obtaining the permission of the Kansas Utilities Commission. When the Interstate Commerce Commission endeavored to fix these rates, it found that a correct relationship should be maintained between the three packing centers, and that the rate from Oklahoma City ought not to exceed by more than 40 per cent that contemporaneously in effect from Wichita, and from Fort Worth by not more than 75 per cent. Accordingly the rates on packing house products from Oklahoma City to Kansas City became 17 cents and on fresh meats 26 cents. That was a considerable reduction from the rates then in effect from Oklahoma City (Tr. 6023-6024).

[fol. 1475] The rates today reflect those figures plus the various increases and minus the decreases. The present rate is 26 cents on packing house products and 39½ cents on fresh meats. The case was decided purely upon the relationship with Wichita and there is no reason to believe that an amount in excess of these locals for our division is unreasonable. I criticized comparisons that Mr. Grace made because instead of using the through rate north on which I say the traffic would move, he used the local rate where there was no through rate. I think that in a rate prorate, the rates north and south of the junction which actually move the traffic should be used in the absence of through rates, if the rates are not depressed by any peculiar conditions. It depends upon the commodity I think (Tr. 6025).

I think each commodity is peculiar to itself. When you come to a rate prorate, I don't think it is entirely right to use a proportional rate north and a local rate south. In this particular case of cotton seed cake and meal, the commodity takes the corn rates in Western Trunk Line territory and there is nothing to indicate that they are depressed or anything particularly wrong with them. I think I could not agree upon any general proposition because each commodity is, as far as the rate prorate is concerned, almost a different law unto itself. Take for illustration, oil: The rate prorate would be entirely unfair on oil. I have in mind Kansas City, because of the very low rates to Kansas City. I think that the use of a local rate south against a proportional rate north would be more comparable in the case of cotton seed meal than the use of the local rate north of Kansas City. I would not say as a general thing that a rate prorate is representative or the fair basis between the use of the rates that moved the business, and just on that [fol. 1476] same theory—of course if I was going to do that I would have to use the class rate on agricultural implements north of Kansas City (Tr. 6026-7).

In Mr. Westcoat's Exhibit A-257 he makes reference to my Exhibit A-226, dealing with cottonseed products, and he shows what a rate prorate would yield the respective carriers north and south of the junctions based on the local rates in the two territories. The Western Trunk Lines are now exacting their full proportional rates on this business

both via East St. Louis and Kansas City. The local rates north of the junctions means nothing because any business that moves would be on the proportional rates (Tr. 6027-6028).

In Mr. Westcoat's exhibit A-260, another evidence is shown as to the impropriety of figuring a rate prorate when one factor is not on the commodity basis. In this instance, the agricultural implement rate north of Kansas City is on the full class "A" basis, naturally a rate prorate would accord an increase to the lines north. This exhibit also shows the impropriety of a mileage prorate and particular attention is called to the percentage relationship a mileage prorate would yield the northern lines as compared to their local rates. In referring to use of the rates on either side of the junction to make a rate prorate, I said if you make a rate prorate; but I said that the making of a rate prorate did not necessarily follow that it was the proper basis of divisions in all cases. Sometimes a rate prorate might be fair if the volume of the rate was similar But take the case of Kansas City. If the man gets his full class A rate on a commodity I would say that that would reflect the proper basis for divisions. I do not say that on all cases the rate prorate would be the proper thing. I think I should be governed by the particular commodity (Tr. 6028-6029).

[fol. 1477] Exhibit A-261 filed by Mr. Westcoat is another illustration showing the fallacy of a rate prorate where the local rate north of Kansas City is on the full class basis. The rate on iron and steel articles from Chicago to Kansas City is 42 cents as shown by the exhibit, which is the full 5th class rate. The commodity rate of 65½ cents south of Kansas City is substantially less than the 5th class rate.

Exhibit A-289 which I have prepared, consisting of 11 pages, is particularly in connection with Mr. Gillette's exhibits A-265, A-266, and A-267. There are so many errors in these exhibits that it will be necessary to call attention to the majority of them pointing them out in connection with the exhibits.

In the first place, as Mr. Gillette explained in connection with these exhibits, he has used what he terms to be the general basis of divisions north and south of Kansas City,

that is, the 70 per cent basis south of Kansas City and 30 per cent basis north of Kansas City (Tr. 6029-6030).

It is a fact, however, that on any business moving via the C. & N. W. the basis used in his exhibits do not apply, and in my Exhibit A-289 I have taken various shipments from the billing and shown actual joint account settlement.

A statement described by the witness was thereupon offered in evidence as Exhibit A-289 (Tr. 6030).

(The statement described by the witness was thereupon received in evidence as Exhibit A-289.)

[fol. 1478] The Witness: Referring to Mr. Gillette's Exhibits, however, I desire to comment on them as I proceed with my exhibit.

On page 1 of his Exhibit A-265, he shows rates on cheese from East St. Louis to Texas common points of $1.26. This rate is in error. The rates from St. Louis to Texas common points range from $1.14 at North Texas points such as Vernon and Terrell to $1.62 at South Texas points. The $1.26 rate which he uses applies to Dallas and Fort Worth. If he had used $1.62 rather than $1.26 the lines south of East St. Louis would be shown to have received 74 per cent of their local rate including St. Louis bridge rather than 95.2 per cent. This exhibit is entirely wrong, and the average mileage shown from East St. Louis to Texas common points is, of course, in error, as he compares his average mileage to the $1.26 rate which is not applicable for the distances used (Tr. 6030).

On page 2 of this exhibit he shows rates and divisions on cheese from Gillett, Wis., to Texas common points via Kansas City, and shows the local rates from Kansas City to Texas common points of $1.46, and that the lines south of Kansas City receive 84.6 per cent of the local rate. The rates on cheese from Kansas City to Texas common points range from $1.14 to the Dallas-Ft. Worth group to $1.42 at Kenedy, Tex. The San Antonio rate is $1.30. I do not know how Mr. Gillette arrived at the $1.46 rate. No shipments move in connection with the C. & N. W. where any such divisions as shown in Mr. Gillette's exhibit apply. On page one of my exhibit A-289 I have shown actual settlement on a car moving from Marinette, Wis., to Waco, Texas, on

through rate of $1.67. In accordance with C. & N. W. division sheet No. 6820 in actual settlement the lines south of Kansas City receive $1.049; lines north 62.1 cents. The revenue of the Southwestern Lines was 81.9 per cent of their local rate; to the lines north of Kansas City 67½ per cent, which is considerably different than the relationship shown [fol. 1479] on page two of Mr. Gillette's exhibit A-265 (Tr. 6031).

On page three of Mr. Gillette's exhibit A-265, he uses as an illustration newsprint paper from Appleton, Wis., to Texas common points. His figures are in error as the factor he has used as the rate from Kansas City to Texas common points of 52 cents is the Dallas-Fort Worth Group rate. The rate to Texas common points is 60 cents. His exhibit is neither correct therefore as to North Texas or as to common point territory because he has shown average mileage to common points. Based on his illustration as to divisions, which is entirely incorrect so far as the C. & N. W. is concerned, but assuming that the lines south of Kansas City did earn 49.7 cents, the percentage relationship to the local rate on common points business is 83 per cent instead of 95.6 per cent as he has it. On page four Gillette's exhibit A-265, the same error is made as to the local rates from Kansas City. 52 cents is the Dallas-Fort Worth rate, while 60 cents is the rate to Texas common points. This makes this page incorrect, and the same criticisms apply as do to page three (Tr. 6031-6032).

On page five Mr. Gillette has shown rates on agricultural implements from Fond du Lac., Wis., to Texas common points. The local rate from Fond du Lac to Kansas City is 48 cents instead of 48½ cents as shown—it is a full class "A" rate. The rate from Kansas City to Texas common points is not $1.185 as Mr. Gillette has it. The Dallas-Fort Worth Group is $1.055 and the Texas common point rate is $1.155, therefore, according to his basis of divisions, the lines north of Kansas City would receive approximately 84 per cent of their local rate which is the full class "A" rate, while to Texas common point territory Southwestern Lines would receive 78 per cent of their local rate as compared with 84 per cent received by the lines north of Kansas City. Even [fol. 1480] though we were to figure a rate prorate there appears to be nothing wrong with this basis, but as a matter

of fact, actual movements to Texas in connection with the C. & N. W. do not carry such substantial revenues for the Southwestern lines. The mileage which I have shown on page 1 from Marinette, Wis., to Kansas City, Mo., of 695 miles is the short line mileage of the Milwaukee Railroad, just as I have shown south of Kansas City the short line mileage. If the Milwaukee handled that shipment direct from Marinette to Kansas City, the rate would have been divided upon the basis shown in Mr. Lutz's exhibits. I refer to Exhibit A-265. That is, he established percentages through Kansas City on his exhibits. The Southwestern lines would have taken 70 per cent of the Milwaukee rate, which is $1.765 and the Milwaukee Railroad would have taken the balance of 30 per cent. I think the rates from Marinette to Kansas City are class A rates. I am pretty sure of that. I don't know whether they are class or commodity rates. I was thinking of agricultural implement rate. My recollection now is that they are third class rates. Those are the cheese rates to Kansas City.

Attorney Larimore here stated that they are class rates (Tr. 6032-6033-6034).

The Witness: On page 2 of my Exhibit A-289 is shown an actual movement of agricultural implements from Racine, Wis., to Alvarado, Texas, and Hillsboro, Texas, and waybill reference and dates of movement are shown. The through rate of $1.295 compares with that in effect from Fond du Lac shown on page 5 of Mr. Gillette's exhibit. Note that in actual settlement we received 77.1 cents per 100 pounds south of Kansas City instead of 90.61 as Mr. Gillette has it, and that the lines north of Kansas City receive 109 per cent of their local rate from Racine, Wis., instead of 84.6 per cent as shown by Mr. Gillette. That is a shipment moved via Chicago & Northwestern, Omaha, [fol. 1481] Missouri Pacific, M-K-T. I think I have shown the short lines in all cases without exception. The 48-cent rate as far as I know is the rate carried by all lines. The Northwestern carries it too (Tr. 6035).

By Mr. Towner:

Q. This is a sample of those divisions to which reference has been made where the lines south of Omaha to one of the

interior Iowa points will give the Northwestern an arbitrary division and divide the balance on Kansas City, which has the effect of increasing the total amount of money that is divided north of the junction?

A. You say it a little bit differently than I would, but that is the effect of it.

The Witness, continuing: I feel that Mr. Gillette's exhibit, while he was talking about the general basis—I wanted the record a little more clear as to the money that we were actually getting by the Northwestern on this business. I think he explained it, but I wanted to show what we had on some of the special bases. In this connection it is important to note that the Western Trunk Lines often do receive in excess of their local rates to breaking points. The Southwestern lines have been criticized several times in this proceeding because in some instances they receive more than their local rates. I have particular reference to Mr. Grace's criticisms as to the divisions on packing house products and fresh meats from Oklahoma (Tr. 6038).

On page six of Mr. Gillette's Exhibit A-265, emphasizing the fact that on potatoes from Escanaba, Mich., to Texas common points, lines north of Kansas City receive 93.2 per cent while lines south of Kansas City receive 95 per cent, it is not clear what criticism is to be found with this condition, except that it apparently shows that we are not receiving any undue proportion south of the Missouri River. [fol. 1482] On page seven of Mr. Gillette's exhibit A-265, he shows divisions which it is alleged apply on refrigerators from Rhinelander, Wis. to Texas common points. His local rates from Kansas City to Texas common points is in error as the figures he quotes apply only to the Dallas-Fort Worth group. The rate from Kansas City to Texas common points is $1.295, so that instead of receiving 84.2 per cent of our local rate to common points we receive only 79 per cent as compared with his figures north of Kansas City of 91.9 per cent of the local rate. As a matter of fact, however, on page three of my exhibit A-289, is shown movement of two cars of refrigerators, one from Fond du Lac, Wis., and one from Rhinelander, Wis., destined Wichita Falls and Dallas, Texas, respectively. It will be observed that on the shipment from Fond du Lac to Wichita Falls,

the lines north of Kansas City received 92.7 per cent of the local rate as compared with 83½ per cent for the lines south (Tr. 6036-6037).

From Rhinelander to Dallas lines north received 117.1 per cent of the local rate as compared with 71.6 per cent south of Kansas City. In other words, the M. K. T. south of Kansas City out of the through rate of $1.545 receive 84.8 cents per 100 pounds on the car from Rhinelander, Wis., to Dallas, instead of 99.8 as Mr. Gillette has it on page seven of his exhibit. On page 8 of Mr. Gillette's exhibit A-265, additional errors are shown. His local rate from Oshkosh, Wis., to Kansas City is 48 cents instead of 48½ cents as he has it, while the local rate from Kansas City to Texas common points is $1.155 instead of $1.055 as shown by him. The latter figure is the Dallas-Fort Worth rate. Therefore, even according to his divisional basis, which is entirely erroneous so far as the C. & N. W. is concerned, to Texas common points we earn 78 per cent of our local rate as compared with 86.4 per cent for the lines north of Kansas City. I think we could well afford to adopt Mr. Gillette's exhibit for our own were it not for the fact that it contains so many [fol. 1483] errors. I have shown the short line mileage north and south in every case, regardless of how the shipments moved. The mileage of 712 miles from Rhinelander, Wis. to Kansas City is via the C. M. & St. P. I think. It is shown on the following page (Tr. 6037-6038).

On page 9 of Mr. Gillette's exhibit A-265 he shows the rate on matches from Kansas City, Mo., to Texas common points as $1.07, whereas, the rate from Kansas City to Texas common points is $1.18. Under his divisional basis shown instead of the lines south of Kansas City receiving 87.4 per cent of the local rate they receive 80 per cent as compared with his showing for the lines north of Kansas City of 85 per cent of their local. If we received 85 per cent of our local south of Kansas City on common point business we would receive $1.005 per 100 pounds instead of 93½ cents as he has it. Therefore, if his exhibit as to percentages of local rates means anything at all, it means that our divisions on matches destined Texas common points should be increased from 93½ cents to $1.005 per 100 pounds. On page 10 of Mr. Gillette's exhibit A-265, he shows rates and divisions on automobiles from Kenosha,

Wis., to Texas common points. The rate he has shown of $1.93 is that applicable to the Dallas-Fort Worth group, and the rate to Texas common points is $2.235. Therefore, according to his figures instead of receiving 92.1 per cent of our local rate, we would receive 80 per cent. These figures are, of course, not correct on shipments moving from Kenosha, Wis., in connection with the C. & N. W. (Tr. 6039).

On page 5 of my Exhibit A-289 are shown actual movements from Milwaukee, Wis., and Kenosha, Wis., to Austin and San Antonio, Tex. Note that north of Kansas City the lines receive 85.7 per cent of the local rate, while south the percentage relationship was 67.6 per cent, and comparing the actual movement from Kenosha, Wis., to San Antonio, Texas, with Mr. Gillette's exhibit, it will be ob- [fol. 1484] served that the lines north of Kansas City actually received $1.029 per 100 pounds, instead of 76.2 cents as he has it, while the lines south of Kansas City receive $1.511 instead of $1.788 as shown by him. It seems to me to matter very little what the general basis may be which Mr. Gillette testified was the basis he used in connection with his exhibit A-265, as the revenues themselves are divided on some other basis. Most of the carriers join in this. The Kansas City Southern, the Katy and the Frisco, I am sure do not. The Frisco has not to my knowledge joined in that 40½ per cent basis. If it has, I do not know it (Tr. 6039-6040).

The condition I was talking about was the Marshalltown-Des Moines condition; but there is a special basis to Chicago. It is a special 15 per cent basis through Chicago differing from the general basis which Mr. Gillette spoke about. So far as my exhibit is concerned, it goes only to that traffic that the Milwaukee gets off the Northwestern routed via Kansas City through its intermediate junction in connection with these other lines that join in this special basis of dividing the revenue (Tr. 6040-6041).

Examiner Disque: I do not understand why the lines south of East St. Louis deduct so much for the bridge charge. When the traffic goes through Kansas City you deduct nothing for crossing the Mississippi at Savannah or crossing the Missouri River at Kansas City for the lines

north of Kansas City. The C. M. & St. P. crosses the river down at Savannah and down at Kansas City again before you get the traffic. Why do you not give them two bridge charges before you apply your 40½ per cent?

The Witness: I think they get too much now, as it is (Tr. 6041-2).

The Witness, continuing: I understand the bridge is a Milwaukee bridge owned by the Milwaukee Railroad Company.

[fol. 1485] (Here Examiner Disque asked Attorney Burg whether the Southwestern Lines would rather pay the Terminal Railroad Association than build a bridge at St. Louis, to which Attorney Burg replied that he did not know whether they would or not, that he did not know why they should contribute to the maintenance of the Terminal Railroad Association when a lot of the trunk lines today did not pay a cent, nine-tenths of this traffic. Attorney Towner said they were paying too much, to which Attorney Burg replied that the Southwestern Lines operated one of the most expensive terminals in the United States for the Western Trunk Lines' benefit) (Tr. 6042).

The Witness, continuing: My Exhibit A-289 shows actual settlement and is more to the point than any theoretical basis. On page 11 of Mr. Gillette's exhibit A-265, the same error is shown in connection with the rates on automobiles from Milwaukee, Wis., to Texas common points as shown on page 10 from Kenosha. He has his rates wrong again, and of course this has invalidated all of the figures he has made. On newsprint paper shown on page twelve of Mr. Gillette's exhibit A-265, he has shown local rates from Kansas City to Texas common points of 52 cents. The rate to Texas common points is 60 cents so that even assuming his divisions are correct, the lines south of Kansas City would receive 83 per cent of their local rate as compared with 79 per cent for the lines north. While we are on the subject of news print paper rates, however, it should not be understood that the lines north of Kansas City receive 79 per cent of their local rate in every instance. On page 10 of my Exhibit A-289 are shown some representative divisions on newsprint paper from Minnesota and Wisconsin points

to Texas common points using the same basis as shown by Mr. Gillette on page 12 of his Exhibit A-265, which does not contemplate the compounding of divisions through Marshalltown or Des Moines. Note that the lines north of [fol. 1486] Kansas City receive generally the same percentage relation of their local rate as do the lines south of Kansas City.

Mr. Gillette's exhibit A-266 shows divisions on various commodities to Oklahoma points. I have very little comment to make on this exhibit because I see no particularly aggravating situation in these divisions as shown by him. There are a few facts to be noted in connection with this exhibit, however (Tr. 6043-6044).

On page 1 Mr. Gillette's Exhibit A-266 shows that on cheese from Green Bay, Wis., to Tulsa, Okla., the lines north of Kansas City receive 82.8 per cent of their local rate, while the lines south of Kansas City receive 74.4 per cent of their local rate. He states that the local rate he uses from Green Bay, Wis., to Kansas City, Mo., is the full third class rate, while our percentage relationship from Kansas City to Tulsa is based on a commodity rate. On page two of Mr. Gillette's Exhibit A-266, covering newsprint paper from Appleton, Wis., to Tulsa, Okla., he shows that the lines south of Kansas City receive 74.4 per cent of their local rate, while we receive 81.1 per cent of our local rate. There is no material difference here.

On page 3, in connection with canned goods divisions from Sheboyban, Wis., to Tulsa, Okla., he shows that the lines north of Kansas City receive 70.2 per cent of their local rate, and readily admits that the local rate from Sheyboygan, Wis., to Kansas City is the full fifth class basis, while using our commodity rate from Kansas City to Tulsa, Okla., of 44.5 cents deduces the fact that we receive 84.3 per cent of our local rate. If we were to receive 70.2 per cent of our fifth class rate from Kansas City to Tulsa, which he receives from Sheboygan to Kansas City, we would receive 38.6 cents per 100 pounds for our haul instead of 37½ cents as shown by him. The rate is 44½ cents regardless of whether it was a class or commodity rate, and if [fol. 1487] we were going to take a shipment from Kansas City to Tulsa, that is the rate we would charge (Tr. 6044-6045).

Mr. Gillette's Exhibit A-267, pages 1 and 2, deal with rates on petroleum oil from Wichita Falls and Burkburnett, Texas, to Green Bay, Wis., and pages 6 and 7 of my Exhibit A-289 deal with the situation also. On page 1 of Mr. Gillette's Exhibit A-267 he shows the rate from Kansas City to Green Bay, Wis., as being 41½ cents. The rate should be 38½ cents so that based upon the divisions which he states are correct, the lines north of Kansas City receive 45.7 per cent instead of 42.4 per cent of the local rate. He shows mileage of 657 miles, which is not the short line mileage—the short line mileage is 619 miles via the C. M. & St. P. On page 6 of my Exhibit A-289 is shown actual movements from Wichita Falls, Texas, to Beloit, Wis., Burkburnett, Tex., to Milwaukee, Wis., and Burkburnett, Texas, to Sheyboygan, Wis. The actual divisions required by the C. & N. W. in connection with the lines beyond Kansas City on these shipments were 40½ per cent of the through rate to Beloit and Milwaukee and 47.8 per cent to Sheboygan, instead of percents shown in Mr. Gillette's exhibit A-267 (Tr. 6045-6046).

The lines north of Kansas City out of the 47 cent rate to Sheboygan earned 22 cents instead of 17.6 cents as shown by Mr. Gillette. Therefore, instead of earning 42.4 per cent of their local rate, they actually earned 57.1 per cent. It is important here to note that contrary to the statements which have been heretofore made, the C. & N. W. is compounding the revenue on northbound movements of oil, and in this instance settlement was made of 40½ per cent basis to Milwaukee, which allows them 17 cents north of Kansas City instead of 12.6 cents as shown by Mr. Gillette. On page 2 of Mr. Gillette's exhibit A-267 the same criticisms are in order as on page 1. On page 7 of my exhibit A-289 [fol. 1488] I have also shown the divisions via East St. Louis on a car from Wichita Falls to Green Bay, Wis. Lines north of East St. Louis exacted 39.1 per cent of the through rate, which allows them 18.4 cents from East St. Louis. I will make reference later to the percents that the revenue north and south of Kansas City bears to the local rates.

On page 3 of Mr. Gillette's exhibit A-267 he shows rates and divisions on Green Salted Hides from Texas common points to Sheboygan, Wis. The rates he quotes do not ap-

ply from Texas common points. The rate of 62½ cents shown to Sheboygan from Texas common points is in error. The 62½ cent rate applies from the Dallas-Fort Worth Group, but not from Texas common points. The same is true with regard to the rate shown of 50 cents from Texas common points to East St. Louis. This is the Dallas-Fort Worth rate (Tr. 6046-6047).

On page 8 of my exhibit A-289 I have shown actual movement from Houston, Texas, to Sheboygan, Wis., on three carload shipments, from which it will be noted that the lines north of East St. Louis received 24.8 cents per 100 pounds, whereas their local rate shown on Mr. Gillette's exhibit is 24½ cents. They receive 101 per cent of their local rate. I will check up the 24½ cent rate. I took this from Mr. Lutz's exhibit. I may have a typographical error here. It would naturally reduce the 101 per cent if the rate were higher than 24½ cents (Tr. 6047).

Referring to the divisions north of East St. Louis, the Western Trunk Lines divisions are so high and they are compounding their divisions on Chicago, probably.

[fol. 1489] Examiner Disque: It may be because the rates are too low.

Mr. Towner: Take a look at page 7. Their divisions are only 62½ per cent north of St. Louis, whereas south it is 82½. That is obviously because our division is not high enough.

The Witness, continuing: On page 5 of Mr. Gillette's Exhibit A-267 he shows the short line mileage from Texas common points to East St. Louis of 803 miles, which is, of course, in error, because he has not used the Texas common point rate. The mileage is not wrong, but he has applied the wrong rate. The mileage of 1,084 miles from Houston to St. Louis is not the short line mileage. That is M-K-T mileage. The short line mileage is 812 miles. That is the way the shipment moved, but I think I have used the short line mileage throughout the exhibit, except that. In the case of the Northwestern shipments, I have used the direct line of the Milwaukee to Kansas City, and the short line to Dallas (Tr. 6047-6048-6049).

On page 4 of Mr. Gillette's exhibit A-267 he has shown divisions on cotton linters, which also contains some errors.

Using the $1.195 rate shown on this exhibit the revenue south of East St. Louis amounts to 78.4 cents, while the revenue north of East St. Louis amounts to 41.1 cents as per S. W. L. Divisions sheet 38-A, I. F. A. 9-A. The lines south of East St. Louis receive 82½ per cent of their local rates, while the lines north of East St. Louis receive 90.3 per cent of their local rate instead of the figures shown by Mr. Gillette.

Page 9 of my exhibit A-289 is merely offered in connection with Mr. Gillette's exhibits because he has invariably made reference to the percentage that the divisions north and south of Kansas City or St. Louis bear to the local rate. I am in considerable doubt as to the value of a relationship of this kind in determining the propriety of divisions, but in order to show that the percentage relationship [fol. 1490] oftentimes is in favor of the Western Trunk Lines, page 9 of my Exhibit A-289 shows divisions on potatoes from Minnesota and Wisconsin producing points to Texas common points and shows the percentage relation of the divisions north and south of Kansas City with the revenue (Tr. 6049).

We probably have a 73 cent rate from Kansas City to Dallas-Ft. Worth territory. I do not know whether generally speaking from this Northwestern territory we have an 81 cent rate. We probably have. But that is a very limited territory as you know. It does not embrace the so-called Texas common point territory. I presume we have two other local rates which would produce substantially larger percentage relationships than I have shown. But if you will refer to Mr. Gillette's exhibit, he talks about Texas common points in every case. I am simply putting my exhibit in to show the Texas common point situation. The Dallas-Fort Worth territory is pretty important territory. There the rate is 73 cents. The Texas common point territory is more important than the Dallas-Fort Worth group. I mean the relative movement of traffic. The Texas common point blanket covers more territory and more traffic than the Dallas-Fort Worth group does (Tr. 6049-6050-6051).

On page 10 a similar situation is shown, which I have already made reference to in commenting upon Mr. Gillette's newsprint paper exhibits. Page 11 is a similar situ-

ation dealing with grain from Minneapolis to Texas common points, where it will be noted to all Texas groups the lines to Kansas City receive their full proportional rates on wheat and corn. The percentage is shown south of Kansas City or the relationship which the divisions bear to our proportional rates. The rates from Minneapolis to Fort Worth and other points shown on page 11 are proportional rates. That is my recollection. The proportional rates may be somewhat less than these rates I have shown. But of course, there is probably no grain. I could not say that. There is grain moving on these lines under the C. [fol. 1491] G. W. tariff. It may not be from Minneapolis. If we bring grain from Minneapolis to our Texas territory, we draw it out on a proportional rate. But there is grain moving on these rates from Chicago, Milwaukee and St. Paul points taking those rates. It is my recollection that the proportional rates divide on a different basis than the rates I have shown. I have not that here, and my exhibit does not show it (Tr. 6051-6052).

I do not know the proportional rate on wheat from Minneapolis to Fort Worth, via Kansas City, but 51½ cents sounds about right. I can not say what the division is. It may be 16.1 cents north of Kansas City and 35.4 south. But the fact remains that there is business moving on the rates shown on page 11 of my exhibit. I am not making any attempt here to show that the proportional rates from Minneapolis to Texas do not carry any grain. I think there is a movement of that grain. If the Western Trunk Lines want to make any further showing in this record as to the division of grain rates from Minneapolis to Texas territory, I do not object to their putting it in, but I do not see why I should put it in for them. My exhibit shows the rates from C. G. W. points. It was not to show merely the grain situation. It is just put in in answer to the criticisms that were made that we were getting such a close percentage to 100 per cent of our local rates and divisions (Tr. 6052-6053).

Referring to page 11 of the exhibit, it is not misleading, except that it uses Minneapolis. If a shipment moved from Minneapolis to this same territory, it may be true that it would move on a different rate, and the division north would be 68½ per cent of the proportional rate north.

If the Western Trunk Line think the exhibit misrepresents the situation, I will file a corrected page showing the [fol. 1492] Minneapolis proportional rate and the rate from some local point on the Chicago Great Western.

Here Attorney Muckley inquired whether the division percentages given in connection with the governing of the witnesses were testimony, to which Attorney Towner replied that he did not know but that if they were going to have any grain divisions in the record he would like to have the exact situation presented (Tr. 6053-6054).

The Witness, continuing: I will file corrected page that will clear the situation.

Mr. Towner: I do not deny the page is correct, so far as your local points are concerned. It is only this Minneapolis situation that I am referring to. I do not say that it is wrong at all, if you are applying it, but you use the local rate.

The Witness: The page is misleading to the effect that it shows Minneapolis as an origin.

After discussion the examiner gave the witness ten days within which to file supplement to the exhibit (Tr. 6054-6055).

The Witness, continuing: Exhibit A-270 offered by Mr. Behrle, and his testimony in connection therewith particularly with regard to his reference to my testimony on pages 5538 and 5539 of the transcript leaves an erroneous impression. At no time in my testimony did I make the statement or inference that the present divisions on oil were not the result of an agreement. The records produced in Mr. Behrle's exhibit A-270 are exactly in line with my testimony at the Galveston hearing regarding this controversy, and the M-K-T expressed itself as being willing to leave the matter of these divisions in the hands of the Chairman of the Western Trunk Line Committee and has as much or more interest in its activities as has the C. & A. [fol. 1493] The mere fact that we did this in 1926 has no bearing upon the propriety of the present or past divisions. Practically all of the divisions involved in this proceeding are the result of agreements, and this condition is no different than any of the other agreements. The Midgely per

cents involved the basis now applicable southbound from Chicago territory to Oklahoma are the result of agreements to which the Western Trunk Lines now apparently object. The same is true of the Texas common point percents.

Exhibit A-274 offered by Mr. Behrle is another illustration where the percentage relation the present divisions bear to the local rate show up favorably for the Western Trunk Lines merely because the local rates are in most instances class rates upon which no business moves (Tr. 6056-6057).

I say no business, Mr. Examiner, because Mr. Behrle has shown northbound movements of strawberries and cotton and potatoes, and there is no movement from St. Louis to Chicago of strawberries or cotton or potatoes or similar commodities. The last column of this exhibit shows the percentage relation present divisions to local rate, and naturally it shows relatively smaller percentage relationship for the Western Trunk Lines than for the lines south of Kansas City. The local rates shown in the third column from the last are in 17 instances out of the 26 commodities listed on the first page full class rates from Kansas City, while the rates south of Kansas City are in every instance commodity rates except five. On page 2 of Mr. Behrle's exhibit A-274, out of the 16 entries, 9 of the rates north of Kansas City are the class rates, while eight are class rates south of Kansas City. On page 3 of Mr. Behrle's exhibit A-274, out of 23 shipments there are 10 class rates used north of East St. Louis and three south thereof (Tr. 6057).

[fol. 1494] On page 4 of Mr. Behrle's exhibit A-274, showing Wisconsin points via East St. Louis, out of the 23 shipments listed 12 of them take the class rates north of East St. Louis. On four of these shipments class rates apply south of East St. Louis. On page five of Mr. Behrle's exhibit A-274, 16 commodities are listed, five class rates are used north of the junctions and one class rate south thereof. On page six of Mr. Behrle's exhibit A-274, 31 shipments are listed out of which 18 class rates are used north and one class rate south of the junctions. This exhibit shows very clearly that a comparison as to the revenues north and south of East St. Louis or Kansas City,

with the local rate north and south thereof, means very little unless the local rates are in some measure comparable. I mean comparable as to the volume of the rate. There is no cotton moving locally from East St. Louis to Chicago. Naturally it would be a higher rate than a paper rate. In the absence of the through rate, the traffic would move on the combination. There are through rates on all these commodities shown, because he has shown divisions of them (Tr. 6057-6058-6059).

Exhibit A-275 was explained by Mr. Behrle and was directed perhaps against Mr. Stanage at page 5508 and 5509 and my testimony at page 5566 with regard to the absorption of Mississippi River bridge tolls at East St. Louis. Absorption by the East St. Louis-Chicago lines as to Chicago presents no different situation than at any other point or for that matter as to points of origin. This exhibit shows for an illustration that on oil moving to Chicago in connection with the C. & A., that line absorbed $461.78 and compares it with the bridge tolls absorbed by the Southwestern Lines of $389.38. The bridge tolls absorbed by the Southwestern Lines are a separate and distinct matter and there is no way of recouping any payments of this character. The switching absorbed by the Chicago lines is of a reciprocal nature; some of it goes to other Western Trunk [fol. 1495] Lines and some to certain eastern lines. On the other hand, eastern lines absorb switching charges which the Western Trunk Lines assess on their business at Chicago, so that the entire arrangement is reciprocal (Tr. 6059).

If we are to consider destination absorption it is entirely proper to consider absorption at the point of origin. No consideration is given that in this exhibit. We have no specific figures as to the total on that feature, but during the month of June, 1924, which period this exhibit covers, there was shipped from Cushing, Okla., a point on our line, 1,352 cars of oil, of this number 839 cars were received from our connections on which switching in the amount of $2,167.80 was absorbed, or an average of $2.60 per car. If we are to consider reciprocal switching charges at destination ends, certainly it is important to consider the fact that all of this oil, lumber, live stock and other freight does not originate on our rails. Mr. Hoffelder's exhibits A-278,

A-279, A-280 and A-281 are directed against several of my exhibits dealing with rates on oil. From Exhibit A-278 which Mr. Hoffelder states is in rebuttal of my Exhibit A-216, it is observed that he uses the short line distances from Tulsa, Okla., to Kansas City in figuring his mileage pro-rates. Tulsa is admittedly a representative producing point, but in my exhibit A-216, which he proposes to rebut, the distances used by me are the average distances from the Mid-Continent Group of 342 miles to Kansas City. This seems to me fair rather than selecting Tulsa, the most northerly point in the group (Tr. 6060).

All of Mr. Hoffelder's exhibits show rate prorates based on locals to and from Kansas City as factors, and reference is made to the fact that we have in our exhibits used rate prorates based on the fifth class rates as a fictitious and theoretical basis. There is nothing fictitious about them—all divisions are more or less theoretical. We feel a rate prorate based on locals to and from Kansas City does not [fol. 1496] present a fair picture or a fair basis for divisions of these rates. Perhaps a rate prorate of the fifth class rate does not, but at least the fifth class rates to and from Kansas City more nearly gives a picture of the general volume of rates in Southwestern territory versus Western Trunk Line territory. It is not uncommon to use class rates to show a picture of this kind because after all, the class rates are generally used as a yardstick to measure the volume of rates in comparing different territories. The rates on oil to the Missouri River and St. Louis from the southwest are depressed, and lower generally than the rates in any other territory either the southeast, C. F. A., Trunk Line or Western Trunk Line. For that reason, a rate prorate does not reflect a fair basis of divisions north and south of Kansas City. When I say "lower generally than the rates in other territory," I mean lower mile for mile. That was conclusively shown in the Consolidated Oil cases (Tr. 6060-6061).

I think it is important to relate briefly the reasons which have kept the rates to the Missouri River depressed. I refer now to the use of a rate pro-rate, using commodity rates north and south of the junction.

When the Kansas field was at its height the rate on petroleum from Kansas refining points to Kansas City was

10 cents per 100 pounds. The rate from Oklahoma to Kansas City was made 5 cents higher or 15 cents, and that was the condition existing when the Commission heard the original Mid-Continent Oil Case, 36 I. C. C. 109, which was decided in 1915. There was no way to get the Kansas State rate of 10 cents up so that the present rates from Oklahoma reflect the old 15 cent rate, which became 19½ cents with the 4½ cent increase of 1918, 26½ cents with the 35 per cent increase and 24 cents with the 10 per cent [fol. 1497] decrease of July 1st, 1922. Mr. Hoffelder's Exhibit A-280 confirms the testimony offered by me in connection with my exhibit A-208 showing the history of the Group 3 adjustment from Oklahoma. It will be observed that Enid, Okla., was placed in Group 3 on May 20th, 1921, and that Ardmore followed August 15th, 1922 (Tr. 6062-6063).

From Mr. Hoffelder's exhibit A-281 offered in rebuttal of my Exhibit A-216, it will be noted he uses in all cases actual distances from Tulsa, Cushing, Muskogee, Ponca City, Enid, Oklahoma City, Ardmore and Grandfield to Kansas City. From Tulsa to Kansas City he uses a distance of 257 miles, from Cushing 281 miles, from Muskogee 254 miles, from Ponca City 265 miles, from Enid 320 miles, from Oklahoma City 344 miles, from Ardmore 465 miles, and from Grandfield 535 miles. If this exhibit was offered in rebuttal of my A-216, as stated, it would have appeared fair to have used the average distances from the Oklahoma Group or 342 miles, which I used on my Exhibit A-216. This would have changed his figures on the mileage prorate basis considerably. As explained in my previous testimony it is necessary, we believe, to consider the entire Oklahoma field as a whole in arriving at divisions. Mr. Hoffelder on page 5898 of the transcript makes the statement that in my exhibit A-216, I used the average mileage from the enlarged group three Oklahoma origin territory rather than the actual short line mileage to Kansas City from Tulsa. I did use the average mileage but my exhibit clearly shows that I used the average short line mileage. There is no doubt but that these refining points used in my Exhibit A-216 and his A-281 are representative, but it should be borne in mind that they do not represent the bulk of the movement. The actual refining production of

straight run gasoline from these 8 points have a capacity of about 40 per cent of the total refining capacity of the straight run refineries throughout Oklahoma. By straight run refineries I mean to exclude casinghead gasoline plants throughout Oklahoma, and from which shipments move [fol. 1498] regularly to such points as Chicago, Minneapolis, etc. (Tr. 6063-6064).

Exhibit A-282 introduced by Mr. Hoffelder shows a movement from Cleveland, Oklahoma, a local point on our line to Chicago. Absorptions are just as common at originating points as at destination points, and Mr. Hoffelder's exhibit in comparing Chicago absorptions with bridge tolls at St. Louis gives no consideration to the fact that Southwestern Lines do actually make absorptions on originating traffic. Naturally we make no absorptions from Cleveland because that is a local point on our railroad. If the C. B. & Q. made a shipment from a local point on their line they would have no absorptions; furthermore, it was not shown that the absorptions at Chicago were not reciprocal or that the switching revenue did not accrue to another Western Trunk Line. Notwithstanding Mr. Hoffelder's statement, it is admitted, according to page 5900 of his testimony, that the lines south of East St. Louis receive 63.8 per cent of the total revenue and perform 63.2 per cent of the haul. Considering that the business originated at a local point on our railroad there appears nothing alarming about this basis of divisions, except that it is further evidence that the Southwestern Lines are not receiving sufficient money on the business they originate (Tr. 6064-6065).

In Mr. Hoffelder's exhibit A-283 he has taken a car from Burkburnett, Texas, a local point on our line, at which there could not possibly be any absorptions at point of origin. In both cases, however, they are reciprocal and there is no showing here that the Burlington or any other line does not receive more money for the switching it performs than for the switching it hires performed. In other words, if the line purchases switching it is a physical disability which it meets due to competitive conditions. I think we ought to get considerably more than the rate prorate either through St. Louis or Kansas City because our oil rates are too low (Tr. 6065).

[fol. 1499] Assuming the Western Trunk Line class rates are too low, and they are too low via the Southwestern Lines, then of course, the same condition would apply. I said in my statement that the class rate as a general thing is more nearly representative of the general volume of rates in two territories than commodity rates.

Mr. Towner: I ask you to make the assumption that the class rates in Western Trunk Line territory are too low and, having made that assumption, I understand you to say that making these divisions on a class rate comparison with the class basis north and south of the Missouri River would not be proper?

Mr. Muckley: He did not say that, altogether; he said, depending upon the fact that class rates in the southwest were on a reasonably proper level.

Examiner Disque: Now assume that the southwestern rates are too high and the Western Trunk Lines rates are too low.

Mr. Towner: We have got a decision of the Commission that ours are too low and we have the Honorable Examiner's decision that yours are too high.

Mr. Muckley: And we have a decision fixing the rates in Western Trunk Line territory, which was put in this record.

By Mr. Towner:

Q. Did you finish your answer to that, or did you adopt what the lawyer said?

A. I answered that (Tr. 6066-6067).

Thereupon the following colloquy occurred which is quoted verbatim from the transcript of testimony:

Mr. Larimore: For my information, Mr. Towner, is it your position that if the class rates are too low the southwestern lines will absorb the traffic by way of division?

Mr. Towner: I did not say that.

Mr. Larimore: That is what it amounts to.

Mr. Towner: I did not say anything about that.

[fol. 1500] Mr. Larimore: Referring to the decision of the Commission that the class rates are too low, does that decision include Class rates intrastate in Iowa?

The Witness: I do not recall now.

Mr. Muckley: What is that decision?

Mr. Towner: It is a pretty new case. I will find it and let you know the citation.

The Witness, continuing: The absorptions that are made at Cushing are switching from the Santa Fe. The Santa Fe could haul that traffic (Tr. 6068).

[fol. 1501] Hearing on June 29, 1926

L. J. Sickel

My testimony is directed to exhibits and testimony of the Western Trunk Lines at the last hearing held in Chicago on May 6th and May 7th (Tr. 6069).

Exhibit No. A-243, presented by Mr. Grace shows the present earnings of the carriers between Chicago and East St. Louis, 111.1 on each of the 10 class rates, and the average of the 10 class rates, also present earnings of the carriers between Chicago, Ill., and Kansas City, Mo., on each of the 10 classes and the average earnings on the 10 classes to 5 points in Oklahoma shown in exhibit A-181.

Exhibit A-243 also shows the earnings on each of the 10 classes and the average of the 10 classes between Chicago and East St. Louis, Ill., based on a mileage prorate, using short line distance between Chicago and East St. Louis, Ill., and 650 miles south of East St. Louis, the latter taken from exhibit A-77, and the same information based on a rate prorate using the average of the 10 classes between Chicago and East St. Louis, Ill., and the average of the 10 class rates between East St. Louis and Texas common points.

A comparison of the average earnings on the 10 classes received by the carriers from Kansas City to the 6 points in Oklahoma shown on exhibit A-243 as compared with the average earnings that the carriers would receive from East St. Louis to the same Oklahoma points based on a mileage prorate and a rate prorate as shown by exhibit A-243 indicates that the lines from St. Louis, Mo., to the Oklahoma points shown on that exhibit would receive the following spread in their earnings over the divisions currently re-

ceived by the lines from Kansas City, Mo., to the same [fol. 1502] Oklahoma destinations (Tr. 6070).

Based on a mileage prorate the earnings of the carriers from St. Louis, Mo., would exceed or would be less than the earnings of the carriers from Kansas City, Mo., to the 6 Oklahoma points shown on the exhibit by the following amounts:

To Woodward, Okla., lines west of St. Louis, Mo., would receive 1.8 cents more than from Kansas City, Mo.

To Muskogee, Okla., lines west of St. Louis, Mo., would receive 8.9 cents per 100 pounds less than from Kansas City, Mo.

To Oklahoma City, Okla., the lines west of St. Louis, Mo., would receive 1.6 cents per 100 pounds less than from Kansas City.

To Enid, Okla., the lines west of St. Louis, Mo., would receive 5.2 cents per 100 pounds more than from Kansas City, Mo.

To Ardmore, Okla., the lines west of St. Louis, Mo., would receive 8.1 cents less than the lines receive from Kansas City.

To Lawton, Okla., the lines west of St. Louis, Mo., would receive 8.1 cents less than from Kansas City, Mo. (6070-6071).

Based on a rate prorate, the earnings of the carriers from St. Louis, Mo., would exceed the earnings of the carriers from Kansas City, Mo., to the 6 Oklahoma points as shown on the exhibit by the following amounts:

To Woodward, Okla., 8.5 cents.

To Muskogee, Okla., two-tenths of 1 cent.

To Oklahoma City, 8.2 cents.

To Enid, Okla., 14.4 cents.

To Ardmore, Okla., 2 cents.

To Lawton, Okla., 2.2 cents.

[fol. 1503] On the present basis of divisions, the earnings of the carriers from St. Louis, Mo., exceed the earnings of the carriers from Kansas City, Mo., to the 6 Oklahoma points shown on that exhibit by the following amounts:

To Woodward, Okla., 16.4 cents.

To Muskogee, Okla., 7.1 cents.

To Oklahoma City, Okla., 16.0 cents.

To Enid, Okla., 22.1 cents.

To Ardmore, Okla., 10.4 cents.
To Lawton, Okla., 10.6 cents.

Putting it another way, the Western Trunk Lines between Chicago and East St. Louis, Ill., for 279 miles would be receiving almost as much and frequently greater earnings than they receive between Chicago and Kansas City for 452 miles (6071-6072).

With the exception of Muskogee, Okla., the percentages in connection with the Santa Fe, G. C. & S. F., Rock Island and Missouri Pacific R. R.s as now in effect via those lines were agreed upon and approved by the Commission as of July 1st, 1925, and the comparison I have made of the divisions received by the Southwestern Lines have been based on that agreement.

The short line distance between St. Louis and Kansas City, Mo., is the same as the short line distance between Chicago and East St. Louis, Ill., although on the present basis of divisions the carriers between St. Louis and Kansas City, Mo., receive considerably less on the average than do the lines between Chicago and East St. Louis, Ill. The divisions via Kansas City, Mo., to and from Oklahoma points on the A. T. & S. F., G. C. & S. F., C. R. I. & P., and Missouri Pacific RRs having been agreed upon and approved by the Commission, it is assumed that those divisions are not under review, and when the traffic moves via East St. Louis thence an intermediate line between St. [fol. 1504] Louis and Kansas City, Mo., the Southwestern Lines south of Kansas City, Mo., receive the same revenue as on movement via the direct lines between Chicago, Ill., and Kansas City, Mo., so that the same revenue remains east of Kansas City, Mo., when moving via East St. Louis as the direct lines receive between Chicago, Ill., and Kansas City, Mo., which necessarily must be subdivided between the lines operating between Chicago and East St. Louis, Ill., with the carriers between St. Louis and Kansas City, Mo. (Tr. 6071-6073).

As pointed out in my testimony in connection with exhibit A-181, the divisions for the lines between Chicago and East St. Louis, Ill., are based on allowing those lines Missouri river proper revenue, in other words, the carriers between Chicago and East St. Louis, Ill., on traffic destined

Oklahoma points are receiving the same revenue as in division of the through rates between Chicago, Ill., and Kansas City, Mo., proper, although the through rates between Chicago, Ill. and Oklahoma points currently and for some years have been considerably less than the combination over Kansas City, Mo., as existed when the agreement was made some years ago to allow the carriers between Chicago and East St. Louis, Ill., Missouri river proper revenue.

On a mileage prorate or a rate prorate scheme as shown by Mr. Grace on exhibit A-243, the carriers between St. Louis and Kansas City, Mo., would receive practically nothing for that service, and in some cases would be obliged to assume a deficit when the traffic is received from or delivered to another line at Kansas City, Mo., and where the line from St. Louis, Mo., receives the through haul to Oklahoma destinations, or to a connection with another line at some interior Oklahoma junction, the earnings of the line from St. Louis, Mo., would scarcely exceed the earnings of [fol. 1505] the same line from Kansas City, and in some cases as pointed out the earnings from St. Louis, Mo., would be less than the earnings from Kansas City, Mo.

The hauls from St. Louis, Mo., to Oklahoma destinations exceed the hauls from Kansas City, Mo., to the same destinations considerably, and when the traffic is handled from St. Louis, Mo., to Kansas City, Mo., and there delivered to or received from another line, the haul of the carrier between St. Louis and Kansas City is equal to the haul between Chicago and East St. Louis, and on that account it appears that the carriers from St. Louis to Kansas City, Mo., ought to receive approximately the same revenue as do the carriers between Chicago and East St. Louis, Ill., although under the present basis of divisions they do not receive as much, due to the fact that the lines between St. Louis and Kansas City, Mo., assume the difference between the combination over Kansas City, Mo., and the division that accrues east thereof via the direct lines.

It does not seem possible that the Western Trunk Lines or the Interstate Commerce Commission would expect the carriers handling the traffic between St. Louis and Kansas City, Mo., to perform that service without compensation, or approximately no compensation, nor does it seem that the lines from St. Louis should be required to haul traffic for

the same revenue as from Kansas City, Mo., when the carriers from St. Louis, Mo., receive the through haul to or from Oklahoma points, or interchange the traffic at interior Oklahoma junctions. On the mileage or the rate prorate basis shown by Mr. Grace in exhibit A-243, if either were adopted, that would be the result. The haul between St. Louis and Kansas City, Mo., is constant, whereas, the hauls of the Western Trunk Lines are not constant (Tr. 6074-6076).

[fol. 1506] Exhibit A-243 indicates that the earnings of the Western Trunk Lines between Chicago and East St. Louis, Ill., at present in effect, but it should not be lost sight of that the Western Trunk Lines receive the same earnings to and from all other points in Illinois taking the same joint thru rates as shown on that exhibit to and from Chicago, although their hauls to and from other Illinois points are considerably less than are the hauls between Chicago and East St. Louis, Ill., (6075-6076).

If it is conceded or recognized that for the additional service St. Louis as compared with the service from Kansas City to Oklahoma destinations that the lines performing that additional service are entitled to a reasonable division in excess of the earnings they receive from Kansas City to Oklahoma origin or destination points, the mileage prorate or rate prorate basis shown on exhibit A-243 gives practically no recognition to that increased service, and unless the carriers that perform the service from St. Louis to Oklahoma destinations do receive a reasonable division above what they receive from Kansas City, there can be no incentive to a continuation of the St. Louis gateway as an interchange point on Oklahoma traffic. The haul from St. Louis, Mo., to Muskogee, Okla., via the St. L. & S. F. Ry. is 457 miles, and from Kansas City 345 miles. To Lawton, Okla., the distance from St. Louis over the St. L.-S. F. Ry. is 631 miles, and from Kansas City 469 miles. When the traffic is handled between St. Louis and Kansas City, Mo., over an intermediate line the distance via the short line from St. Louis, Mo., exceeds the distance from Kansas City, Mo., to all Oklahoma points by 279 miles (6076-6077).

The divisions between points in Western Trunk Line territory and Oklahoma points via Kansas City in connection with origin or destination points in Oklahoma on the A. T.

& S. F. Ry., G. C. & S. F., C. R. I. & P., and Missouri Pacific [fol. 1507] RRs. having been agreed upon and approved by the Commission effective July 1st, 1925, as result of which the lines east of Kansas City, Mo., received an advance in their divisions, and when and if the Commission fix the divisions via Kansas City to and from Oklahoma points on the M-K-T, St. L.-S. F., and the K. C. S. Rys., it seems reasonable that whatever the proportions are, or may be, east and south of Kansas City, that the proportions east of Kansas City, Mo., should be subdivided over St. Louis, Mo.-East St. Louis, Ill., instead of allowing the Western Trunk Lines between Chicago and other territories and East St. Louis, Ill., a percentage proportion of the local rates to or from Kansas City, Mo., as now in effect, because the joint through rates no longer reflect the full Kansas City, Mo., combinations as existed when the present basis of divisions was originally established, which at present allows the Western Trunk Lines a percentage based on the local rates to and from Kansas City, Mo. That would be on a mileage prorate; that is, if they had a mileage prorate, the earnings would exceed the local rate (Tr. 6076-6078).

By Examiner Disque:

Q. Referring to this and the preceding paragraph of what you have been reading is it the desire of the parties here that the Commission decide all those points, as to how those rates should be divided? Are you in this case trying to get these things settled on a so-called scientific basis, or what do you wish the Commission to do for you?

A. In my early testimony on this I merely pointed out what the divisions were and I said we had no complaint to make about it, and thought that the Western Trunk Lines were receiving sufficient when they were receiving Missouri river proper revenue, because Mr. Grace put in an exhibit here showing what the division would be over East St. Louis on a rate prorate or a milage prorate that would be greatly exceeding earnings of the Western Trunk Lines as [fol. 1508] compared with their present divisions. That is one reason I am pointing to this point here, pointing out why the rate prorate or the mileage prorate either should not be used. We are not complaining, Mr. Examiner, about the divisions necessarily by East St. Louis. We think that

the Western Trunk Lines are receiving sufficient as it is now. We are not complaining about it. But if those divisions should be increased to the Western Trunk Lines, then we would have serious complaint, and it would probably result in the East St. Louis gateway being closed. I am merely pointing out the inconsistency, as I see it, under the mileage prorate and rate prorate basis against the present basis.

Q. What I was trying to get at is the Commission will have to decide this case, and my question to you is whether you expect this Commission to pass on all the different divisions by the different gateways and tell you whether the rate should break on St. Louis or Kansas City on one commodity and not on the other; or that it should be on the constructive mileage prorate or on the mileage prorate, or on any other basis.

Mr. Towner: So far as I am concerned I do not expect the Commission to go into that detail in respect to divisions.

Examiner Disque: What do you expect?

Mr. Towner: I expect the Commission to prescribe some sort of mileage basis (6078-6079).

Examiner Disque: What sort of mileage basis, a mile and a half or a mile and a quarter?

Mr. Towner: Whatever the Commission finds to be proper between groups.

Examiner Disque: In the aggregate?

Mr. Towner: Yes, sir, and then we ought to be able to work it out.

[fol. 1509] Mr. Muckley: You mean without splitting up the territory?

Mr. Towner: You are gong into too much detail. In answer to Mr. Disque's question whether I expect to go into that detail, I will say I do not.

Mr. Muckley: You mean in each division?

Mr. Towner: What I meant was to take each rate on individual commodities, or anything of that sort. I do not intend that.

Mr. Muckley: I do not think the case could ever be decided if you did that, because it would take too long.

Commissioner Disque: I am only getting at whether you cannot tell us today just how we should proceed in this

case to reach a decision, whether all carriers in a group, all territory in a group, or whether we should split the southwest into three groups and say that Texas shall be so much on a mileage prorate, Oklahoma shall be so much, Arkansas something else (Tr. 6078-6080).

Mr. Muckley: There is a difference between the rest of Trunk Line territory, because of its heavy traffic density.

Mr. Towner: That is the way in which I expect to handle it, Mr. Disque. I think we all have the same idea on that.

Mr. Muckley: All have the same general idea, but not the same conclusions.

Mr. Towner: I do not expect to agree with you on conclusions.

Examiner Disque: Maybe you can agree on certain matters and leave the rest to the Commission.

Mr. Muckley: We tried to agree with Mr. Towner on certain matters but were not able to do it.

[fol. 1510] Mr. Towner: It was all give and no take as far as Towner was concerned. That was the only objection to your proposed agreements.

Mr. Muckley: I do not know what we asked you to give that you should be able to keep.

Examiner Disque: All right (6081).

The Witness: Exhibit A-245 presented by Mr. Grace shows divisions via East St. Louis on agricultural implements from Chicago, Ill., and automobiles from Kenosha, Wis., to several Oklahoma points. Taking up agricultural implements, that exhibit shows that on the basis of short line mileage prorate, the earnings of the Western Trunk Lines from Chicago to East St. Louis, Ill., would exceed the local rates from Chicago to East St. Louis, Ill., by 42.3 per cent, to Woodward, Okla., 35.7 per cent, to Oklahoma City, Okla., 25.1 per cent to Muskogee, 35.3 per cent to Enid, Okla., and 42 per cent to Ardmore, and that the lines from East St. Louis to the same Oklahoma points would receive about 25 per cent less than their local rate from East St. Louis. On the rate prorate basis shown on that exhibit the earnings of the Western Trunk Lines from Chicago to East St. Louis, Ill., are approximately the present earnings. The latter reflecting Missouri river proper earnings for the Western Trunk Lines, notwith-

standing the fact that the through rates are less than the full combination over Kansas City, Mo. Any change in the divisions via East St. Louis that would increase the proportions for the Western Trunk Lines as compared with the earnings the Southwestern Lines receive under the recent agreement approved by the Commission via Kansas City would naturally make the St. Louis gateway unattractive for the Southwestern Lines, as the earnings now received by the Southwestern Lines from St. Louis as compared with the earnings they receive from Kansas [fol. 1511] City reflect such a low spread that under the present basis of divisions the Southwestern Lines frequently in the past have been obliged to confine the application of the rates to the Kansas City gateway in connection with the direct lines on certain traffic because the difference in the earnings did not warrant performance of the additional service (6081-6083).

Exhibit A-245 shows the earnings from Kenosha, Wis., to East St. Louis on automobiles to several Oklahoma points. Kenosha, Wis., is located on the C. & N. W. Ry. and Chicago, North Shore & Milwaukee Ry. The latter line is not a party to the through rates. This exhibit shows the earnings at present in effect via East St. Louis, and what they would be on the basis of short line mileage prorate, and a rate prorate. On referring to Illinois Freight Association Division Sheet No. 3-C, which has been made a part of this record, on page 5 thereof, an exception is published for account of the C. & N. W. and the C. M. & St. P. Rys., that the divisions as published in that issue will not apply via or, to or from stations on the C. & N. W. or C. M. & St. P. Rys., although the exhibit under the heading of present divisions shows specifics from Kenosha, Wis., to East St. Louis, Ill., published in that issue, and quotes that issue as authority therefor. There are no divisions in Illinois Freight Association Division Sheet 3-C to or from points on the C. M. & St. P. or C. & N. W. Rys. via East St. Louis, Ill., on Oklahoma traffic and other western states named therein, except to and from points in Eastern Missouri (6083).

Mr. Grace presented his exhibit A-246, listing 12 Wisconsin cheese shipping points, from which the Chicago rate was authorized by the Interstate Commerce Commission

[fol. 1512] in Docket 15880, and on pages 5693 and 5694 of the transcript indicates that the proposed divisions shown in my exhibit A-168 does not contemplate any compensation to the lines north of East St. Louis for their additional service from the Wisconsin cheese producing points taking Chicago rates over and above the service from Chicago to East St. Louis. Chicago is not a cheese producing point, but whether it is or not, it follows that as the Commission have prescribed the same through rates from the 12 Wisconsin shipping points shown on Mr. Grace's exhibit A-246, as was authorized by the Commission from Chicago, that indicates the Commission have prescribed rates from the 12 Wisconsin shipping points that accord the carriers' origin to desination no greater revenue than from Chicago, so that the Commission have given no recognition in establishing rates that the average short line mileage from the 12 Wisconsin points to East St. Louis exceeds the short line distance from Chicago to East St. Louis by 38.4 per cent, and that being the situation as to the rates, I have applied the same principle to the divisions. There are similar situations in Texas involving greater hauls on the part of the Southwestern Lines in connection with the same rates than the average short line mileage from the 12 Wisconsin points to East St. Louis are in excess of the short line mileage from Chicago to East St. Louis. In other words, the commodity rate of $1.55 per 100 pounds from the Wisconsin shipping points in the Chicago Group have been extended over a wide territory to Northeast Texas extending from the Oklahoma-Texas border on the north to Dallas and Fort Worth, Texas, on the south, and from points immediately beyond the Arkansas-Louisiana border on the east to as far west as Dallas and Fort Worth, so that under my proposal less consideration was given to the service of the southwestern lines than was given to service of the Western Trunk Lines (6083-6085).

[fol. 1513] Another feature is that the "proposed percentages" shown in my exhibit A-166 as applying to Dallas, Texas, now apply to all points within Texas common point territory, whereas, there is a considerable variation in the rates as prescribed by the Interstate Commerce Commission from Wisconsin cheese shipping points in Chicago

group to Texas common points. For example the rate from Chicago Group to Paris, Dallas, Ft. Worth, Mineola, Longview and Marshall, Texas, is $1.37 per 100 pounds, and from Wisconsin Group to the same points $1.55 per 100 pounds. To Palestine, Nacogdoches, Houston and Galveston, the rates are $1.49 and $1.67 from Chicago and Wisconsin Groups respectively. To Austin, San Antonio and Sweetwater, the rates at $1.55 and $1.73 from Chicago and Wisconsin Groups respectively. Under the present basis of divisions, the Texas points referred to all being located in common point territory, the Western Trunk Lines receive the same percentage of the higher rates to Southern and Western Texas points named, as shown on my exhibit A-166 to Dallas, so that under the "proposed divisions" shown in my exhibit A-166, where the rates from Wisconsin points are the same as from Chicago, the same proportions would accrue to the Western Trunk Lines from Wisconsin shipping points in the Chicago Group as from Chicago when destined points in Texas to which the rate of $1.37 was authorized by the I. C. C., and similarly to points in Texas to which the same rate is in effect. However, to points located in Texas common point group to which higher rates are published than to Dallas, the Western Trunk Lines are receiving a greater division in cents per 100 pounds than on the same traffic from the same points to North Texas destinations by reason of the fact that from Chicago the division between Chicago and East St. Louis is 20 per cent on the Texas common point traffic, so that the Commission in fix-
[fol. 1514] ing the rates to South Texas points have given recognition to the greater service to those points as compared with North Texas destinations by fixing higher rates. The Southwestern Lines do not enjoy the entire increase under the present basis of divisions for the reason that the Western Trunk Lines receive greater divisions in cents per 100 pounds to South Texas points than to North Texas points. On the other hand, to North Texas destinations to which the rate of $1.37 from the Chicago Group has been authorized by the Commission, the inference from the testimony of Mr. Grace is that recognition should be given to the added service of the Western Trunk Lines from Wisconsin points in the Chicago Group over the service from Chicago to East St. Louis, and no recognition should be given to the

added service of the Southwestern lines to North Texas destinations to which the rate of $1.37 is in effect from the Chicago Group, although the added service of the Southwestern Lines from the border points to the principal consuming points is greater than the average short line mileage from Wisconsin points in the Chicago Group to East St. Louis as compared with the short line mileage from Chicago to East St. Louis (6085-6087).

Mr. Grace points out on page 5694 of the transcript, the third-class rate from Milwaukee to Dallas, Texas, is $1.58. That is the St. Louis third-class rate. The third-class rate from Milwaukee is $1.765 based on the third-class differential, 18.5 cents over the class rate from St. Louis.

On pages 5715 and 5716 of the transcript, Mr. Schmidt points out that the basis of divisions proposed in my exhibit A-152 of 21.5 per cent for the carriers between Chicago and East St. Louis on Little Rock traffic when applied to forest products has the effect of allowing the lines south of East St. Louis in excess of the local rates, and the lines north of East St. Louis less than their locals. Mr. Schmidt [fol. 1515] deals only with lumber destined Chicago, but as I understand it, Chicago is not the only point within Western Trunk Line territory to which lumber is shipped, and while it may be true that the effect of the proposed basis on shipments to Chicago would bring about the result as pointed out by Mr. Schmidt, I do not think that a basis of divisions should be condemned, using one destination point as an illustration, and because of the result at Chicago, the entire basis to all destinations within Western Trunk Line territory is automatically condemned. It is difficult, if not impossible for the carriers or the Commission to agree upon or order a basis of divisions for general application that will not result in one or the other group of lines in instances being allowed in excess of their local rates, and it is because of these conditions that it has been so difficult for the carriers to get together and lay down some general basis for application on all traffic (6087-6088).

As result practically all northbound commodities are subject to specific divisions, and as a result, frequent, prolonged and expensive conferences have been necesary in the past to bring about agreements in connection with each and every change in a point through rate. This has been due to

the lack of a general basis that could be applied on all traffic with a few possible exceptions, and it is my thought a plan of that kind if adopted ought not to be changed nor exceptions made thereto on certain commodities as in the past. This would enable the carriers to work together more smoothly and enable prompt publication of rates instead of delays that now result until divisions are agreed upon.

There is no basis of divisions that any carrier may propose, that the carriers as a whole may agree upon, or that the Commission may order into effect, that cannot be sub-[fol. 1516] ject to criticism if any scientific expert is so inclined. In other words, it is impossible to lay down a general basis of divisions that will not in some specific cases, and on certain commodities result in one group or another group of lines receiving in excess of its local rates. While it is generally a recognized principle of the carriers, and the I. C. C. have several times expressed themselves to the effect that no line or group of lines should receive in excess of their local rates in division of a through rate, it does, however, place an enormous burden upon the Accounting Departments of all lines when provision is made in division sheets restricting lines to local rates as maximum, and it has been the source of serious complaint by the American Association of Freight Accounting Officers (6088-6089).

By Examiner Disque:

Q. I did not know that generally they were, that generally the carriers were restricted to locals. You say in lots of cases they were and in lots of cases they were not. You say generally that is so?

A. Generally that is so, when provision is made in the agreement sheet, that they shall receive no more than their own rate.

Q. I know lots of cases where that is not so.

A. I am talking to the point that I think it ought not to be in the division sheets. That is what I am trying to make out.

Q. I know it.

A. The principle is all right, but it cannot be worked out.

Q. I sort of agree with you.

A. I think the lines are too narrow about those things.

You would be better off if you had specifics on every class, on every commodity. Take a lot of traffic moving between Chicago and all over the southwest, less carload as well as carload, if you have got to apply a percentage to every given rate and test that out against the local rate of [fol. 1517] each line, why they could not compile one month's account in one year, I do not think.

In I. C. C. Docket No. 15234, involving the settlements of divisions betwen Western Trunk lines and Transcontinental carriers via Missouri river crossings and Minnesota Transfer, the specific divisions on forest products from North Pacific Coast points to points within Western Trunk line territory were discontinued ——.

Q. Has that been approved by the Commission?
A. I understand so (6089-6090).

The Witness: I go on to say that the divisions were agreed upon and approved by the Commission.

Examiner Disque: No. The Commission does not know anything about it. That was settled by the carriers in conference last July.

Mr. Muckley: And no objection raised by the Commission. That is the fact, is it not?

The Witness: Yes.

Mr. Towner: That is the same case in which on other traffic we had an increase, according to Mr. Dana, of about $3,000,000 a year in our revenue. I will make the same settlement with the southwestern lines now.

Mr. Muckley: I should think you would. We will settle with you if you give us $3,000,000.

The Witness (continuing) —and the new merchandise percentages were substituted by agreement between the carriers with the approval of the Commission. This frequently results in the carriers west of the Missouri river receiving in excess of the local rates although the agreement made no provision restricting the carriers west of the Missouri river to their local rates. This is an instance where the merchandise percentages bring about a situation of one group of lines in certain instances receiving in excess of [fol. 1518] their locals, and which is the source of Mr. Schmidt's complaint to the basis that I proposed on Southwestern lumber, so that if we take into consideration all

of these individual situations where conditions of that kind may exist, the question of divisions between the carriers will be a never ending process of continued negotiations (6091-6092).

I do not know whether those lumber rates have been reduced so that the point that I refer to now is no longer in issue, but I recall that about 5 or 6 months ago at a conference in Chicago that the representative of the Union Pacific Railroad brought out the point that some of the Western Trunk Lines were holding the lines west of the Missouri river to their local rates on this lumber because their new percentages had the effect in some cases of allowing the lines west slightly in excess of local rates.

It appeared from colloquy of counsel that this was the result of some ruling of the Commission as to which a petition for a rehearing had been filed, but it was not shown whether or not it had been passed on. The comparisons made by Mr. Schmidt on pages 5715 and 5716 of the transcript takes into consideration the switching absorptions within the Chicago Switching District. An examination of Illinois Freight Association Tariff Bureau Tariff No. 22-R, I. C. C. No. 55, issued by C. W. Galligan, shows that about 61 per cent of the lumber receivers within the Chicago Switching District are located on Western Trunk Lines parties to this proceeding, 18 per cent on exclusive switching lines, and about 21 per cent of the lumber receivers within the Chicago Switching District are located on road haul carriers entering Chicago not parties to this proceeding. There are comparatively few lumber receivers located within the Chicago Switching District on the C. & E. I., C. & A., Wabash and I. C. R. Rs., the total number being about [fol. 1519] 30 on the four lines as compared with about 120 industries located on the C. B. & Q., C. M. & St. P., and C. & N. W. railways. This shows that more than 50 per cent of the absorptions on lumber within the Chicago Switching District made by the C. & E. I., C. & A., Wabash and I. C. Railways as shown by exhibit A-275 reflect absorptions by the lines specifically named to other Western Trunk Lines that are parties to this proceeding (6092-6094).

In other words, I take the position that exhibit A-275 should only have shown the switching absorptions at Chicago paid out by the C. & A., C. & E. I., Wabash and I. C.

Railways to road haul carriers not a party to this proceeding. Additionally the switching absorptions at Chicago that are paid to exclusive switch lines do not approach the allowances prescribed by the I. C. C. that are made by the Southwestern Lines to so-called Tap Lines, such allowances being absorbed wholly by the Southwestern Lines.

The switching absorptions on lumber at Chicago that are made by the C. & E. I., C. & A., Wabash and I. C. Railways reflect a competitive situation that the lines named must meet in order to handle lumber to industries served by the road haul carriers entering Chicago, such as the C. B. & Q., C. M. & St. P., C. & N. W., and others, whereas, in the Southwest the allowances to Tap Lines fixed by the I. C. C. is not a competitive situation, because the industries located on Tap Lines are not served by any of the direct road haul lines in the Southwest parties to this proceeding. The C. & E. I., C. & A., Wabash and I. C. Railroads actively solicit lumber traffic in the Southwest, and if their activities were confined to lumber industries located on their own rails, or on exclusive switch lines in the Chicago switching [fol. 1520] District, the situation portrayed on exhibit A-275 would not exist.

Because they do not actively solicit this lumber traffic in the Southwest to industries located on other Western Trunk Line road haul carriers, the Southwestern Lines apparently are expected to recognize their competition by increasing the divisions to the Western Trunk Lines named. That is the inference from the testimony of Mr. Schmidt as shown on pages 5715 and 5716 of the tran[illegible] A large percentage of the lumber going into the Chi[illegible] Switching District over the four lines previously named reflect a competitive situation that exists wholly as between the Western Trunk Lines themselves parties to this proceeding (6094-6096).

On page 5718 of the transcript, Mr. Schmidt stated, "so far as our line is concerned, and 90 per cent on the C. & E. I. Railway is the points at which we have to make these absorptions."

On referring to I. F. A. Tariff Bureau Chicago Switching Committee Tariff No. 22-R, I. C. C. No. 55, issued by C. W. Galligan, I check only 5 lumber receivers on the C. & E. I.

Railway, and as that tariff shows that about 60 per cent of the lumber receivers in Chicago are located on Western Trunk Lines road haul carriers parties to this proceeding, Mr. Schmidt's statement indicates that practically one-half of the lumber handled by the C. & E. I. Ry. is going to industries located on Western Trunk Lines road haul carriers parties to this proceeding within Chicago Switching District. This is a proceeding that involves the Western Trunk Lines as a whole as compared with the Southwestern Lines as a whole, so that about 50 per cent of the absorptions on lumber made by the C. & E. I., C. & A., Wabash and I. C. Railroads constitute payments that are made to other Western Trunk Lines parties to this proceeding (6096).

[fol. 1521] On page 5747 of the transcript, Mr. Schmidt pointed out: "The committee record was not clear as to the necessity for the proportional rates on Arkansas traffic, and further points out that because originally rates to Arkansas common points were based differentially over St. Louis, and to Arkansas local points the rates were based originally on combination using full locals south and proportionals north has resulted in a divisional basis which has been a source of constant trouble for a number of years, which will continue until such time as a clear and definite basis is placed into effect via the points at which the traffic is interchanged with Southwestern Lines."

The fact remains that the proportional rates referred to were published by the Western Trunk Lines and were filed with the I. C. C. There has been no controversy that I know of between the Southwestern Lines and the Western Trunk Lines in the past as to the divisions to either Arkansas common or local points.

I pointed out very clearly in my testimony that the Western Trunk Lines to Arkansas common points received their full proportional rates to East St. Louis in division of rates made on differential basis, notwithstanding the fact that the differentials used in the construction of the through rates were considerably less than the proportional rates to East St. Louis (6097).

I also pointed out that beginning with October 7th, 1913, when through rates were established to Arkansas local points based on the same differentials as existed in making

rates to Arkansas common points, that thereafter the Southwestern Lines allowed the Western Trunk Lines to East St. Louis their full proportional rates although to local points prior to October 7th, 1913, the joint through charge was made on combination using the proportional rates to Thebes, and the local rates beyond, and that in division of the proportional rates to Thebes, the Western [fol. 1522] Trunk Lines received from Chicago and points taking same rates to East St. Louis 65 per cent of the proportional rates to Thebes, which was and is the established basis for dividing traffic movement between Chicago and Cairo or Thebes via East St. Louis in division of local or proportional rates.

I also pointed out that when the through rates were established on October 7th, 1913, to Arkansas local points by the use of the differential basis it automatically reduced the through charge to the extent of the difference between the differentials over East St. Louis plus local rates south of East St. Louis on one hand, and the proportional rates to Thebes plus local south of Thebes on the other; and that the proportions for the Western Trunk Lines in connection with the reduced rates were increased to the extent of allowing those lines to East St. Louis their full proportional rates, whereas, in division of the higher rates immediately prior thereto, the Western Trunk Lines to East St. Louis received a lower division because 65 per cent north of East St. Louis of the proportional rates to Thebes allowed Western Trunk Lines a lower division than their full proportional rates to East St. Louis.

To my knowledge there has never been any controversy as to this between the Southwestern Lines and the Western Trunk Lines. Naturally because the divisions are expressed in specifics on each class or commodity at present and in the past, it has been and will be necessary in the establishment of new commodity rates in either direction that there be a specific understanding as to the divisions. This I attempted to cover in my testimony in which through percentages were suggested, the same to apply in connection with all joint through rates regardless of how made. If through percentages were established in the man- [fol. 1523] ner that I suggested, or as may be otherwise

agreed to, the necessity of negotiations between the Western Trunk Lines and the Southwestern Lines in connection with newly established rates would cease and ought to cease (6098-6099).

On page 5747 of the transcript, Mr. Schmidt points out that prior to the establishment of through rates to local points in Arkansas, the Southwestern Lines insisted that the lines north of East St. Louis from Chicago were not entitled to any greater division than 65 per cent of the proportional rates applicable between Chicago and Thebes, Ill. That division is not one in which the Southwestern Lines are interested. The division referred to is one that has been and is still in effect on traffic handled under local or proportional rates between Chicago and Cairo-Thebes via East St. Louis between the Illinois Lines. The Missouri Pacific Railroad between East St. Louis and Cairo-Thebes was and is an Illinois line in the division of local or proportional rates between Chicago and Cairo-Thebes, Ill., via East St. Louis, and the division referred to by Mr. Schmidt was and is a matter of agreement solely between the Illinois Lines, so that insofar as traffic moving between points within Western Trunk Line Territory and Arkansas local points prior to October 7th, 1913, was concerned, the division of the proportional rate to Thebes was a matter wholly between the Illinois Lines (6099-6100).

In saying that I considered the Missouri Pacific an Illinois line. On local traffic, I would not want to say about the Cotton Belt. They operate on the Missouri Pacific rails on the east side of the river from Thebes to East St. Louis. At no time within my memory have the Southwestern Lines insisted upon the Western Trunk Lines accepting from Chicago 65 per cent of the proportional rates to Thebes for [fol. 1524] their service north of East St. Louis on traffic destined Arkansas common points. They have always allowed the Western Trunk Lines their full proportional rates to East St. Louis except that on and after August 26, 1920, in connection with through rates established under I. C. C. Ex Parte 74, the Western Trunk Lines have been allowed their proportional rates between Chicago and East St. Louis as of June 25, 1918, advances 35 per cent instead of 40 per cent, due to the fact that the through rates were

advanced 35 per cent and in that respect the Southwestern Lines by agreement with the Western Trunk Lines increased the proportions between Chicago and East St. Louis in the same measure as the through rates were advanced (6100-6101).

On pages 5748 and 5749 of the transcript, Mr. Schmidt states: "It has been the practice of the Southwestern Lines to publish rates to Thebes, Ill.—considerably lower than the rates to St. Louis, Mo. The reason for that was apparent. It permitted the Southwestern Lines to receive full rates to Thebes, Ill., plus a division of the Northern Lines' rates from Thebes, which division result- in practically every case in excess of what would accrue to them had the rates to Thebes, Ill., been properly aligned with those in effect to St. Louis, Mo., or vice versa."

The Southwestern Lines have always published through rates from Cairo-Thebes on a lower level than from St. Louis, Mo., and East St. Louis, Ill. The distance from St. Louis, Mo.—East St. Louis, Ill., is about 150 miles greater than from Cairo-Thebes, Ill., to Arkansas points, and the I. C. C. in fixing the rates under the 9702 scale authorized a higher basis of rates from St. Louis, Mo.—East St. Louis, Ill., than from Cairo-Thebes, Ill., to and from Arkansas points. The rates under the 9702 scale were based on distances, so that the voluntary action of the carriers prior to the 9702 scale seems to have been followed out by [fol. 1525] the Commission under the 9702 scale in publishing lower rates from Cairo-Thebes, Ill., to and from Arkansas points than to and from St. Louis Mo.-East St. Louis, Ill.

Certainly the Southwestern Lines in fixing the rates between Cairo-Thebes, Ill., on a lower level than between St. Louis-East St. Louis and Arkansas points did not have in mind the point raised by Mr. Schmidt that the purpose of establishing lower rates to and from Cairo-Thebes, Ill., was to make a lower through charge to and from Chicago than over St. Louis-East St. Louis. If the Southwestern Lines can be so charged then the I. C. C. can also be so charged, because as previously pointed out the I. C. C. have fixed lower rates between Cairo-Thebes, Ill., and Arkansas points than to and from St. Louis, Mo.-East St. Louis, Ill., under the 9702 scale.

Following out Mr. Schmidt's statement, the question naturally arises, why do and why have the Western Trunk Lines published higher rates between Chicago and Cairo-Thebes than East St. Louis, Ill. proportional and local. The Western Trunk Lines may have defeated the Cairo-Thebes combination if they had published in their own tariffs the same proportional rates to and from Cairo-Thebes as to and from East St. Louis. Possibly the Western Trunk Lines can explain why they published higher local and proportional rates to and from Cairo-Thebes than East St. Louis (6102-6103).

The distance between Chicago and Cairo-Thebes as compared with the distance to and from East St. Louis evidently influenced the higher rates. The I. C. C. had this point in mind in fixing the rates for the Southwestern Lines under the 9702 scale, Cairo-Thebes versus East St. Louis. It seems to me that Mr. Schmidt's statement is out of all reason in charging bad faith on the part of the Southwestern Lines in the fixing of rates in Southwestern territory when [fol. 1526] the same rate situation exists within Western Trunk Line territory. The inference is that distance should be considered in fixing rates within Western Trunk Line territory, but should be disregarded in Southwestern Territory.

On page 5751 of the transcript, Mr. Schmidt points out that the Southwestern Lines accorded the Eastern Lines on traffic to and from the territory east of the Illinois-Indiana state line, the 5 per cent advance in their proportion and that after a long siege of negotiation the Southwestern Lines made the same allowance to the Western Trunk Lines. The Southwestern Lines, immediately following the 5 per cent advance in the local and proportional rates between Chicago and East St. Louis, increased the proportions to the Western Trunk Lines correspondingly, and while it is true there was considerable discussion thereafter, in regard to the matter, the basis was never changed, so that the Western Trunk Lines from the date that the proportional rates were advanced 5 per cent, received that increase thereafter. The through rates were not increased in the same measure (6103-6104).

On page 5752, Mr. Schmidt made the following statement: "Throughout the testimony of the witnesses of the South-

western Lines I find particular emphasis on the Milwaukee-Texas differential basis, whereunder the lines north receive 15 per cent plus 20 per cent of the remainder for the service to East St. Louis. The demands of the Southwestern Lines for full rates to Thebes, Ill., plus 35 per cent of the rate or division north however seems to be proper according to the witnesses for the Southwestern Lines."

The division of 15 per cent north of Chicago, plus 20 per cent of the remainder for the Western Trunk Lines is applicable only southbound to Texas, and only in connection with certain routes and carriers. At no time on Texas [fol. 1527] traffic have the Southwestern lines demanded their local to or from Thebes, Ill., plus 35 per cent of the rate or division north of Thebes for their service to or from East St. Louis, except on commodities, if any, where the through rates have been constructed on the combination of locals over Cairo-Thebes, Ill., and that condition exists only in connection with some northbound commodities where the rates are only built upon the Thebes combination. In cases of that kind the subdivision of the rate or the proportion north of Thebes, via East St. Louis in so far as the Missouri Pacific and the Cotton Belt Lines are concerned is a divisional matter between the Illinois Lines, or the Western Trunk Lines, and is not involved in this case (6104-6105).

Answering Mr. Towner's questions as to whether I mean to say that for the purpose of making that division the Missouri Pacific and Cotton Belt are Western Trunk Lines and that the subdivision of the rates or the proportion north of Thebes via East St. Louis is a Western Trunk Line matter and not involved in this case, I say that they are Illinois lines, and they are Western Trunk Lines so far as that division is concerned. Where your rates are built up on combination over Thebes, just the same as if you had no through rate. If you had no through rate there would be no question about it, and when you have used a combination and built up a through rate there should not be any question about it.

In this particular, we are treating the Missouri Pacific and the Cotton Belt as Western Trunk Lines for the purpose of fixing this division. On page 5753 of the transcript Mr. Schmidt points out that the first class rate to Higginson,

Ark., the first point immediately south of Bald Knob, Ark., to which through rates were in effect on the differential basis, was the same as the combination rate to Bald Knob, [fol. 1528] and somewhat lower on the remaining classes, and also pointed out that the shrink in the proportions of the Southwestern Lines as shown by numerous examples, results from their own decision to place these rates on the differential basis, Chicago over East St. Louis of their own volition, without the concurrence or knowledge of the Illinois Lines. Higginson, Ark., was and is a common point immediately south of Bald Knob, Ark., and the fact that the combination over Thebes on October 6th, 1913, was on first-class to Bald Knob, the same as the through first-class rate to Higginson, was probably a coincidence, however, Mr. Schmidt confirms what I have pointed out that on all of the classes to Bald Knob the combination over Thebes exceeded the through rates to Higginson, the next common point beyond. As to the publication of joint through rates on the differential basis to and from Arkansas local points, that action was not taken of their own volition, and without the knowledge of the Illinois Lines. That action was necessary because the combination over Thebes in practically all cases exceeded the through rates made on the differential basis to Arkansas common points immediately beyond, so that as a result, Fourth Section violation existed (6105-6107).

The rates between St. Louis and Cairo-Thebes to and from Arkansas local points as compared with competitive points were properly aligned, there being no Fourth Section violations, but there were Fourth Section violations on the traffic from Western Trunk Line points because differentials that were used in constructing through rates to and from Arkansas common points were lower than the proportional rates published by the Western Trunk Lines which were used in constructing the through rates to and from Arkansas local points. The rates between points in West- [fol. 1529] ern Trunk Line territory and Arkansas are published by Agent F. A. Leland, and the Western Trunk Lines have given Agent Leland power of attorney to act for their account, so that it cannot be said that the publication of through rates to and from Arkansas local points was without the knowledge or concurrence of the Western Trunk

Lines. It seems unfair tnat the Southwestern Lines, individually or collectively, should be censured because of the action of the Western Trunk Lines in giving Agent Leland power of attorney to act for their account (6107-6108).

On page 5754 of the transcript, Mr. Schmidt refers to my exhibit A-143, and points out that on October 6th, 1913, division north of East St. Louis was 62.7 per cent of the local rate north, wherein revenue to the southwesthern lines was in excess of their local rates from East St. Louis. This has reference to the division to and from local points in Arkansas, prior to the publication of joint through rates. The Southwestern lines handling the traffic through Thebes, Ill., prior to the establishment of joint through rates, received their local rates to or from Thebes, Ill., because the rates were constructed on the Thebes combination. The Missouri Pacific and the Cotton Belt, when those lines received the haul to or from East St. Louis, received a division of the proportional rates between Chicago and Thebes, which was a matter wholly between the Illinois Lines, as the Missouri Pacific and the Cotton Belt, strictly speaking, in the division of local or proportional rates between Chicago and Thebes, were and are Illinois Lines, and the divisions between Chicago and Thebes-Cairo via East St. Louis are not involved in these proceedings. The situation [fol. 1530] pointed out by Mr. Schmidt, did not exist on and after October 7th, 1913, and does not exist at the present time, because I have shown on my exhibit A-143, the shrink Southwestern Lines are making below their local rates from East St. Louis are very substantial. Mr. Schmidt gives some examples on page 2-A of his exhibit A-251 of the situation as it existed on October 6th, 1913, to local points in Arkansas, showing that the Southwestern Lines received in excess of their local rates from East St. Louis. This was also referred to in his testimony on pages 5754 and 5755 of the transcript, and I have pointed out before that the Missouri Pacific and the Cotton Belt in the division of rates between Chicago and Thebes, Ill., were not Southwestern Lines, but were Illinois Lines, so that the total revenue received by the Missouri Pacific south of East St. Louis in division of combination rates made over Thebes, did not reflect the revenue of the Missouri Pacific and Cotton Belt as Southwestern Lines at that time (6108-6110).

The proportions that the Missouri Pacific and the Cotton Belt received south of Thebes at that time did reflect our revenue as Southwestern Lines. Mr. Schmidt pointed out on pages 5754 and 5755 of the transcript that "some thought should be given to the measure of the divisions in effect prior to the rate changes before serious consideration can be given to the statements that the Southwestern Lines have been penalized by the rate and divisional changes." The question of the division between Chicago, Ill., and Cairo-Thebes, Ill., via East St. Louis in division of local or proportional rates is not involved in this case, and the divisions of the rates in effect October 6, 1913, between Chicago and Thebes of 65 per cent north of East St. Louis and 35 [fol. 1531] per cent south, are still in effect and reflect an agreement of long standing between Illinois Lines.

Regardless of that, it was pointed out in my testimony that immediately following establishment of joint through rates to and from Arkansas local points on October 7, 1913, Southwestern lines allowed the Illinois Lines their full proportional rates to and from East St. Louis, the effect of which forced the Southwestern Lines to assume the shrink in the through rates as compared with the combination in effect previously, and that the Southwestern Lines also assumed the increase in the divisions to the Western Trunk Lines (6110-6111).

On page 5755, Mr. Schmidt refers to page 3 of his exhibit A-251, pointing out that the current through rates, using the average of the ten classes, reflects an increase of 69.9 per cent over the average of the ten class rates on October 7, 1913, but that the divisions of the Southwestern Lines have increased 89.4 per cent. The latter figure is in error. It should be 74.4 per cent. Mr. Schmidt entirely overlooks that there have been many readjustments in the rates between St. Louis, the base point and points in Arkansas between October 7, 1913, and June 24, 1918, and under the 5702 scale, but no changes were made in the differentials during that period, nor in the divisions of the Western Trunk Lines. St. Louis, Mo., always was the basing point, rates to and from Western Trunk Line Territory being made on stated differentials over the base point, and as changes in the base point rates were made, corresponding changes followed to and from Western Trunk Line points.

The Western Trunk Lines at all times received their full proportional rates, but Mr. Schmidt did not point out that the Southwestern Lines at all times received less than their full local rates. The percentage advance in the divisions [fol. 1532] of Southwestern Lines followed the percentage advance in the base point rates. There is a comparatively small difference between 69.9 per cent and 74.4 per cent, which Mr. Schmidt should have mentioned instead of 89.4 per cent, the slight difference being caused principally by the readjustment in the rates to and from the base point St. Louis, Mo., made by the Interstate Commerce Commission in Docket 9702, to which no contribution was made by the Western Trunk Lines because through rates to and from Western Trunk Line territory continued to be made on the same stated differentials as were used before the 9702 scale over the base point St. Louis, Mo. (6111-6112).

On page 5755 of the transcript Mr. Schmidt refers to page 4 of his exhibit A-251 and points out that the Southwestern Lines reduced the rates and voluntarily increased the division to the Western Trunk Lines. That is exactly what occurred, and is shown by my exhibit No. A-143, and it is on that account that I suggested a change in the basis. There are, in fact, few if any instances where joint through rates are reduced, and that one group of carriers [illegible]ed proportions at the expense of the other group [illegible]rriers, which is exactly what was done in this case, that is, the Southwestern Lines, in connection with the reduced rates increased the proportions to the Western Trunk Lines. On page 5 of Mr. Schmidt's exhibit A-251 two sets of divisions are shown, and on page 5755 of the testimony Mr. Schmidt shows the result of each basis.

Bald Knob, Ark., is used as an example. There is only one basis of divisions in effect and actually used to and from local and competitive points on the Missouri Pacific R. R. in Arkansas, and that is the basis as shown in the first block on page 5 of exhibit A-251. In other words, the Missouri Pacific is allowing all Western Trunk Lines on traffic inter- [fol. 1533] changed at East St. Louis the specifics published in Illinois Freight Association Division Sheet No. 5 to East St. Louis. We have not, and are not, prorating the Thebes specifics via East St. Louis. Mr. Schmidt on page 5750 of the transcript so stated.

The Missouri Pacific R. R. could, if we were so disposed to prorate the specifics north of Thebes via East St. Louis, but have not done so, as admitted by Mr. Schmidt in his testimony, nor have the Missouri Pacific prorated the Thebes specifics via East St. Louis following the publication of joint through rates on October 7, 1913, to and from Arkansas local points, nor have the Missouri Pacific, at any time, taken that action to and from Arkansas common points (6112-6113).

Mr. Schmidt also points out that on the basis shown in my exhibit A-143, applied by the Missouri Pacific on Bald Knob traffic, the lines north receive 30 per cent of the through rates and perform 49 per cent of the haul. That may be true, and if it is, it is because the proportional rates of the Western Trunk Lines between Chicago and East St. Louis, versus the local rates East St. Louis to Bald Knob reflect a similar condition, as shown by my exhibit A-143, and the Western Trunk Lines are receiving practically their full proportional rates between Chicago and East St. Louis currently, but the Southwestern lines are receiving considerably less than their local rates in division of the joint through rates that are considerably less than the combination of proportional rates to East St. Louis, and the local rates beyond. Any line that refuses to accept their local or proportional rates in division of a through rate that is less than the combination is beyond redemption.

[fol. 1534] On page 5756 of the transcript, Mr. Schmidt refers to page 6 of his exhibit A-251, pointing out that the lines between Chicago and East St. Louis on Little Rock traffic received 29.2 per cent in 1896, 32.3 per cent in 1898, and at present 28 per cent of the through rates. He also points out the division received by Southwestern Lines currently reflect an increase over the 1898 division in excess of that made in the through rates, and indicates on that basis no shrink has been made by the Southwestern Lines contrary to what I pointed out in my exhibit A-143.

Here again Mr. Schmidt fails to mention the cause which was due to readjustments in the rates between St. Louis, Mo.-East St. Louis, Ill., and Arkansas points, some advances and some reductions, and as the rates from Chicago are made differentially over whatever rates may be established to or from St. Louis, and as the carriers between

Chicago and East St. Louis receive specifics in cents per 100 pounds on each class, it naturally follows their division would not fluctuate, but the proportions of the Southwestern Lines should fluctuate to the same extent as in their local rates (6113-6115).

One of the adjustments I refer to is the fixing of rates by the I. C. C. in the 9702 case between Arkansas points and St. Louis, Mo.-East St. Louis, Ill., and various Missouri river and Mississippi river crossings. Using Mr. Schmidt's argument, if rates between Chicago and points in Arkansas currently were on the combination of locals over East St. Louis, and there would be an advance in the rates between Chicago and East St. Louis, which would be reflected by a corresponding increase in the through rates between Chicago and Arkansas points, the Southwestern Lines would be entitled to all or part of that increase on his theory. I do not imagine the Western Trunk Lines would concede [fol. 1535] that point, but it is exactly the basis of the argument as outlined by Mr. Schmidt in his testimony on page 5756 of the transcript.

On pages 5756 and 5757, Mr. Schmidt refers to page 3 of my exhibit A-142, dealing with the question of divisions on traffic from Milwaukee to Arkansas, in which I pointed out that Southwestern Lines reduced their revenue in 1898 to the extent of the reduction in the differentials from Milwaukee to the basis of the Chicago differentials, and also points out that in his opinion there should be first taken into consideration whether or not the 1898 divisions were proper. I might quote for the information of this record, the following from Chicago & St. Louis Traffic Association Joint Proportional Freight Tariff No. 1, I. C. C. No. 4, issued by Horace Tucker, which bears, C. & E. I., G. F. D. No. 1158 of 1905. This is a Western Trunk Line Tariff, in which the following exception is published on Arkansas traffic—"the proportional rates provided herein will not be used on traffic destined to or coming from Arkansas common points or points basing thereon where through tariffs upon a lower basis are in effect, but these proportional rates must in all cases be exacted north of East St. Louis, Cairo, Gale and Thebes in the division of such through rates" (6115-6116).

This exception in the tariff referred to, issued by the Western Trunk Lines' Chairman at that time, indicates clearly that the proportional rates in that tariff, and which are the divisions that I have referred to, were demanded and required by the Western Trunk Lines and were not the divisions that the Southwestern Lines arbitrarily forced upon the Western Trunk Lines, but the divisions referred to were arbitrarily demanded by the Western Trunk Lines, using their own language and forced upon the Southwestern Lines. Whether these divisions are fair or not, apparently was not a matter of choice as far as [fol. 1536] the Southwestern Lines were concerned, but were divisions that were "required" by the Western Trunk Lines according to the language quoted in their own tariff. The tariff referred to bears the following numbers for account of individual lines:

C. & A. G. F. D. No. 16118; C. B. & Q. G. F. O. No. 20447; C. & N. W. shown on title page without any specific tariff number; I. C. R. R. Tariff No. A-15334; Wabash Ry. No. 37135; C. M. & St. P. G. F. D. No. 50947; C. P. & St. L. G. F. O. No. 4845; C. G. W. G. F. D. No. B-2041; E. J. & E. Division Sheet No. 3129 and Vandalia R. R. No. E-3532.

I think this points out clearly that the divisions received by the Western Trunk Lines are clearly of their own choice and making, and how any line or group of lines can consistently condemn a basis that is of their own making is difficult to understand, particularly now that it is condemned and made to appear as if the divisions were arbitrarily made by the Southwestern lines (6117-6117).

On page 5757 of the transcript, Mr. Schmidt refers to page 6-A of his exhibit A-251, and compares the ton mile earnings of the Southwestern Lines in 1896 as compared with 1898, and admits there was a reduction in the Southwestern Lines' earnings occasioned by placing Milwaukee, Wis., on the Chicago basis, but still contends that the 1898 divisions do not seem to be fair to the Northern Lines. This, notwithstanding the fact that I have repeatedly pointed out that the Western Trunk Lines were receiving their proportional rates in division of through rates that were less than the combination of proportionals and locals over East St. Louis, and that these divisions were the result of requirements by the Western Trunk Lines and not

by any demand on the part of the Southwestern Lines, so that the divisions now condemned by the Western Trunk [fol. 1537] Lines are divisions of their own choice and requirements.

Regardless of the ton mile earnings, which is largely reflected by the rate levels in Western Trunk Line territory, as compared with the rate levels in Southwestern Territory, I cannot see how any group of lines can complain when in division of through rates less than the combination over the interchange point they receive their full proportional rates, and which they have demanded as their division of such through rates (6117-6118).

Mr. Schmidt also points out on page 5757 of the transcript that—"whatever reduction was made seems to have been recovered as the current divisions will indicate." Here again the Western Trunk Lines seem to think that they should receive a part of the increases in the rates made by reason of various readjustments from St. Louis and Cairo to points in Arkansas, and not because of any increase made in the rates within Western Trunk Line Territory as previously pointed out. Mr. Schmidt also speaks of the fairness of the original factor as not having been determined. That factor as previously pointed out was a divisional requirement of the Western Trunk Lines and not one of the Southwestern Lines.

On page 5758 of the transcript Mr. Schmidt refers to page 8 of his exhibit A-251, pointing out in 1896 the lines between Chicago and Cairo, Ill., on Little Rock traffic received 33.3 per cent of the rate and performed 59.7 per cent of the haul; in 1898 they received 37 per cent of the rate and performed 59.7 per cent of the haul, and at present receive 32 per cent of the rate and perform 59.7 per cent of the haul. The first two illustrations reflect merely the rate [fol. 1538] levels within Western Trunk Territory, as the Western Trunk lines received their full proportional rates to Cairo, however, the Southwestern Lines did not receive their full local rate from Cairo to Little Rock, so that the revenues of the Southwestern Lines are lower than reflected by their rate levels. That feature was not pointed out by Mr. Schmidt (6118-6119).

On pages 5759, 5760 and 5761, Mr. Schmidt comments upon the basis of divisions proposed between points in

Western Trunk line territory and Arkansas points via East St. Louis and via Cairo-Thebes in my exhibits A-152 and A-153, and points out that the Southwestern lines have criticized the Northern lines as to the Milwaukee-Texas divisions via Chicago, which has reference to the compounding divisions, and indicates that I suggested a basis similar on Arkansas traffic. There is considerable difference between the present compound divisions on Milwaukee-Texas traffic via Chicago than what I proposed on Arkansas traffic. The basis for the divisions shown in my exhibit A-153 of 21.5 per cent north of East St. Louis between Chicago territory and Little Rock indicates what the Western Trunk lines would receive at present in the event no joint through rates were in effect, and no proportional rates were in effect between Chicago territory and East St. Louis or Thebes, Ill. It indicates clearly in that even the combination of locals over Thebes would make the lowest through charge, and the carriers north of East St. Louis would receive 65 per cent of the local rates, Chicago territory to Thebes for their service to East St. Louis. Now then can the Western Trunk Lines expect to receive a greater division in connection with through rates that are lower than the combination over Thebes, Ill. The Southwestern Lines are not responsible for the rates in effect within Western Trunk Line territory, and it seems clear to me that the Western Trunk Lines cannot [fol. 1539] expect more than 65 per cent of the local rates to Thebes for their service between points within Chicago territory and East St. Louis, because that is exactly what they would receive if no joint through rates were in effect at present. It seems clear to me that with joint through rates in effect on a differential basis over rates from St. Louis, which is lower than the lowest combination that would obtain if no joint through rates were in effect, and the Southwestern Lines propose a basis that will give Western Trunk lines the same revenue as they would receive if no joint through rates were in effect, that no fairer basis could be proposed, because it has the effect of the Southwestern lines assuming the difference between the lowest combination and the through rates. My exhibit A-153 shows the present through rates between Chicago territory and Little Rock as well as the combination of

locals over Cairo-Thebes, and over East St. Louis, and the difference between the lowest combination and the present through rates can be seen clearly on that exhibit. On the basis that I proposed the Southwestern lines would not be compounding their revenue, and it is entirely dissimilar to the present Milwaukee-Texas compounded divisions via Chicago. I also proposed that via Cairo-Thebes, the Western Trunk lines receive the spread in their local rates, Chicago territory to Thebes over East St. Louis, in addition to the division proposed to East St. Louis. This is exactly what the Western Trunk lines receive on traffic handled locally between Chicago territory and Thebes as compared with traffic handled locally between Chicago territory and East St. Louis (6119-6121).

On page 5761 of the transcript, Mr. Schmidt states,—"it seems that the 65 per cent and 35 per cent basis will never be lost sight of by the Southwestern lines regardless of the impropriety of that basis." That is a division that has been in effect for a number of years between the Illi- [fol. 1540] nois lines between Chicago territory and Cairo-Thebes via East St. Louis, and as I pointed out in my testimony, is an exact mileage prorate. That is a basis that is not involved in this proceeding, because it applies between Illinois lines, and as between Illinois lines I do not know that it has ever been questioned. Furthermore, Chicago territory is quite large, and it allows lines north of East St. Louis the Chicago proper mileage as their factor to and from all points taking the Chicago rates although the distance from a number of points in Illinois to East St. Louis is less than it is from Chicago to East St. Louis. No more favorable basis could be worked out for the Western Trunk lines north of East St. Louis.

On page 7 of Mr. Schmidt's exhibit A-251, divisions are shown between Milwaukee, Wis., and Little Rock, Ark., via East St. Louis, and shows that the divisions currently received by the Western Trunk Lines are 77 per cent of the local rates, and the divisions of the Southwestern lines are 79.5 per cent of the local rates. That shows the Western Trunk lines and the Southwestern lines are each receiving very nearly the same percentage of their local rates on the present basis of divisions (6121-6122).

On page 7 of the same exhibit, the current divisions between Minneapolis, Minn., and Little Rock, Ark., are shown, but no comparison has been made as in the case of Milwaukee, Wis., shown on the same page that the divisions Minneapolis, Minn., to East St. Louis currently exceed the local rates to East St. Louis. That point was brought out clearly on my exhibit A-142, page No. 4, and my exhibit shows that the Southwestern lines on the current basis of divisions are receiving considerably less than their local rates. On 8 of the 10 classes the Western Trunk lines receive in excess of their local rates between Minneapolis and East St. Louis, although no mention was made of that [fol. 1541] by Mr. Schmidt in his testimony, nor on page 7 of his exhibit A-251.

In my testimony I pointed out that when Milwaukee differentials were discontinued, and the Chicago differentials extended to apply to and from Milwaukee territory, that the Southwestern lines made no change in the divisions to the Western Trunk lines, and that this had the effect of the Southwestern lines assuming the entire shrink. I also pointed out that from Fox river territory, which includes Minneapolis, Minn., that the same reduction was made as from Milwaukee territory, and that the Southwestern lines again assumed the shrink, because divisions formerly received by Western Trunk lines in connection with the higher differential basis were continued. I also pointed out in my testimony in connection with my exhibit A-154, that the Western Trunk lines currently publish between Milwaukee, Wis., and Mississippi and Ohio river crossings, proportional and local rates within their own territory, higher than rates from Chicago, and similarly to Mississippi Valley points, but that on traffic between Milwaukee territory and the Southwest the same differentials were employed in making joint through ratee as to and from Chicago territory, and that a similar situation exists on Minneapolis-St. Paul territory. That is the reason why I pointed out Southwestern lines should receive Chicago revenue currently on traffic to and from Milwaukee and Fox river territories, which the Southwestern lines originally received when Milwaukee territory was on a higher differential basis tahn Chicago territory (6122-6124).

On traffic between Milwaukee and the so-called Trans-Missouri territory, Chicago percentages are applied east and west of the Missouri river on traffic to or from Milwaukee. Although the rates from Milwaukee are on the same basis as Chicago, and as the Western Trunk lines do not dispute the divisions via Missouri river crossings to and from Trans-Missouri territory, recently agreed to and ap- [fol. 1542] proved by the Commission based on Chicago percentages east and west of the Missouri river, it seems to me there is every reason why the Southwestern lines on Milwaukee and Fox river traffic should receive Chicago revenue.

On pages 5761 and 5762 of the transcript, reference is made to my exhibit A-155 on potatoes from certain Minnesota points to Little Rock, Ark., via St. Louis, Mo., in which it is shown in one instance that the divisions received by the Western Trunk lines is the same as the local rate to East St. Louis, and the division of Southwestern lines is 11.5 cents less than the local rate, East St. Louis to Little Rock, and in another case shown in that exhibit the division north of East St. Louis is 3 cents less than the local, and south 11.5 cents less than the local. Mr. Schmidt states, "the fact, therefore, that lines north are receiving their local rates on that particular traffic, and lines south less, is not pertinent." I fail to understand that testimony. It may not be pertinent to the Western Trunk lines, but it is pertinent to the Southwestern lines. It indicates that whatever opinion the Western Trunk lines may have of the divisions currently in effect in division of through rates on potatoes that accord the Northern lines their local rates or very near the local rates, and the Southwestern lines considerably less than their locals, apparently has merit, but when the situation is reversed the merit disappears. This was pointed out by Mr. Schmidt as shown on page 5762 of the transcript in connection with my exhibit A-156 on cheese, although in the latter case the lines north of East St. Louis are receiving 1 cent per 100 pounds less than their proportional rates to East St. Louis. The through rates are considerably lower than the combination of proportional and local rates over East St. Louis. In that case Mr. Schmidt [fol. 1543] compares the division north of East St. Louis with the local rate to East St. Louis, although the local rate

would never have been used in the construction of a joint through rate, but the proportional rate would have been used had no through rates been in effect (6124-6126).

On page 5763 of the transcript, Mr. Schmidt calls attention to the point I raised, that in division of many commodity rates on which there are no commodity specifics published, Western Trunk lines receive class specifics, and objects to the proposal I made to allow the Western Trunk Lines the same percentage of their class division that the through commodity rate is of the through class rate on the ground that if a commodity rate bears no relation whatever to the class rate that basis is improper. He also expressed the belief that as the proportions north are unduly low, the result by application of a still lower basis works entirely to the advantage of the Southwestern lines. It is true that the basis I proposed will work to the advantage of the Southwestern lines. The basis as it now stands works entirely to the disadvantage of the Southwestern lines, and to the advantage of the Western Trunk lines. In the establishment of commodity rates to and from the Southwest, there is no standard basis, that is, commodity rates are not established based on a given or standard percentage of the class rates. When commodity rates are established they are based on various conditions, such as competition in effect from producing points in other territories, market conditions, and rates that the traffic will bear. Necessarily a commodity rate established with all of these conditions taken into consideration naturally will not reflect a standard percentage of the class rates, however, whatever the commodity rates may be they naturally bear a percentage relation to the class rate. It is necessarily to establish commodity rates that will move the traffic, and it does not fol- [fol. 1544] low that any uniform relationship of commodity rates to class rates would result in through rates that would enable shippers to market their products, and even if there was a fixed relationship there would still remain the necessity of establishing through percentages. It is possible if some fixed relationship was adopted it may result in lower through rates than now in effect on some commodities, in other cases possibly it may result in higher through rates than now in effect on some commodities. In

other words, as I understand Mr. Schmidt's argument, if there was a fixed relationship, commodity rates versus class rates, the principle of my proposal would be acceptable, but because there is not a fixed relationship, my proposal is objected to. The objection does not seem to be logical, because on traffic moving between points in Western Trunk line territory and destinations in other territories between which percentages are applied, the same question is involved although not objected to be the Western Trunk lines. As example, through percentages are in effect between points in Western Trunk line territory and all Mississippi valley points on a percentage basis, and there are very few exceptions to the application of the merchandise percentages. Similarly through percentages are in effect between points in Western Trunk line territory east of the Missouri river and Western Trunk line territory west of the Missouri river, and practically all traffic divides on merchandise percentages with comparatively few exceptions. Similarly merchandise percentages are applied on practically all traffic moving between points in Western Trunk line territory and the entire Pacific Coast and intermountain territory with but few exceptions. There are a number of commodity rates in effect between points in Western Trunk line territory and the Pacific Coast and inter-mountain territory that bear no fixed relation to class [fol. 1545] rates, and this is also true of Western Trunk line territory west of the Missouri river. We have the same situation on traffic moving between points in Western Trunk line territory and Oklahoma via Kansas City, also Texas traffic via either Mississippi or Missouri river crossings, although on Oklahoma and Texas traffic there are possibly more exceptions to the application of the merchandise percents than to and from Western Trunk line territory west of the Missouri river and Pacific Coast points and inter-mountain territory. Because there are so many exceptions on Oklahoma and Texas traffic is the reason why the Southwestern lines have objected to the continuance of so many specific divisions on commodities to and from the Southwest. One of the reasons why there are so many specific divisions between points within Western Trunk line territory and Arkansas points, is due to the lack of through percentage arrangements on all traffic. Practically all

traffic moving between Arkansas points and points within Western Trunk line territory via St. Louis, Mo.-East. St. Louis., Ill., or Cairo-Thebes divides on specifics, and there are so many commodity rates in effect on which the Northern lines receive their class specifics, although the commodity rates are considerably lower than the through class rates, that the necessity for a percentage arrangement applicable on all traffic is apparent. The Western Trunk lines are well aware that I have repeatedly stated it was my desire to substitute through percentage arrangements for the present specific divisions, and that the percentages arrangement should include all points within Western Trunk line territory. The principle seemed to appeal to the Western Trunk lines (6126-6129).

On page 5771 of the transcript in connection with Mr. Wescoat's exhibit No. A-252, Mr. Wescoat points out that the percentage relationship of proportion of Western Trunk lines has decreased 8.5 per cent with no change for Southwestern lines, which has reference to page 1 of his [fol. 1546] exhibit A-252 showing the proportions for Western Trunk lines and Southwestern lines on Chicago-Texas traffic via East St. Louis on December 1, 1892, as compared with present through rates. No statement was made to indicate why percentage relationship of the proportion of Western Trunk lines has decreased at the persent time as compared with December 1, 1892, with no change for Southwestern lines. The decrease shown by Mr. Wescoat for Western Trunk lines is wholly due to advances having been made in local rates between Chicago and East St. Louis that have not been reflected in the joint through rates. If they had been reflected the same percentage relationship would exist at present as in 1892. The local rates of Western Trunk lines between Chicago and East St. Louis were advanced in the 5 per cent case which advance was not reflected by corresponding increases in through rates between points in Western Trunk line territory and Texas. Additionally the local rates of Western Trunk lines between Chicago and East St. Louis under I. C. C. Ex Parte 74 were advanced 40 per cent, whereas, joint through rates between Chicago and Texas were advanced 35 per cent. Eliminating these two advances made within Western Trunk line territory that have not been reflected in the joint through

rates, the disparity in the relationship, pointed out by Mr. Wescoat on page 5771 of the transcript will disappear. To bear out my statement Mr. Wescoat points out on page 5771 of the transcript that—"there has been no material change in the ratio either north or south of Kansas City in this respect." This is due to the fact that local rates between Chicago, Ill., and Kansas City, Mo., have continued in effect for a number of years and were advanced under General Order No. 28, and I. C. C. Ex Parte 74, in the same percentages as joint through rates were advanced (6124-6131).

[fol. 1547] On sheet 1 on Mr. Wescoat's exhibit A-252, percentages are shown on each class and the average on the ten classes—the resulting specifics on each class and the average of ten classes north and south of East St. Louis between Chicago, Ill., and Texas common points. A survey of the divisions on each class worked out on that basis shows that on some of the classes, Western Trunk lines will be exceeding their full current local rates which reflect advances previously pointed out that have never been reflected in joint through rates; on the other hand, it shows Southwestern lines would be making substantial reductions in their divisions on each class as compared with their local rates from St. Louis. Chicago territory, on Texas traffic, extends to within a short distance of East St. Louis, and it certainly does not seem to be proper to use Chicago, Ill., as basing point to establish divisions for Western Trunk lines to apply to and from the entire Chicago Group as pointed out in my exhibit A-158.

On page 5778 of the transcript, Mr. Wescoat points out that on traffic from Chicago to Louisiana points, south of Shreveport, Monroe, Alexandria group, under the plan used by the Southwestern lines of applying Texas percents the revenue of the Western Trunk lines is considerably lower on Louisiana traffic than on Texas traffic. As pointed out in my testimony, the rates between Chicago and Louisiana points were originally the same as to Texas common points. I pointed out that Chicago & St. Louis Association of Traffic Division Sheet No. 99, effective May 25, 1895, provided that Western Trunk lines between Chicago and East St. Louis would receive Texas common point per cents. That division sheet is an issue of the Western Trunk lines. There

have been many readjustments in rates between St. Louis-East St. Louis and Louisiana points prior to and following Federal control. I refer particularly to the 9702 scale. [fol. 1548] Rates between St. Louis, Mo.,.and other Mississippi river crossings and Arkansas and Louisiana points under that scale have been based on distance. It is on that account that the Texas per cents apparently should no longer be applied nor apparently should the Western Trunk lines receive Texas common point revenue because the rates to Louisiana points no longer bear any relations to Texas common point rates. However, they are related to the rates as fixed in the 9702 scale to Arkansas points. On that account in my testimony it was suggested the Western Trunk lines ought to receive the same specifics as proposed for Arkansas traffic as a divisional factor in fixing through per cents (6131-6133).

On sheets 1 and 2 of Mr. Wescoat's exhibit A-253, divisions have been shown north and south of East St. Louis from Chicago, Ill., to Randolph, Natchitoches, Opelousas and Bunkie, La., via East St. Louis, Ill., based on a mileage prorate. The proportion for the Western Trunk lines on that basis on each of the ten classes would exceed the full current local rates between Chicago and East St. Louis as shown on that exhibit. That would be the result at Randolph, La., and on seven of the ten classes, to Natchitoches, Opelousas and Bunkie, La. I am speaking only of Chicago, Ill., as that is the only point in Western Trunk line territory used by Mr. Wescoat in his exhibit. From other Illinois points in Western Trunk line territory, eighteen of which have been shown in my exhibit A-168, sheet 5, the local rates of the Western Trunk lines are lower than between Chicago and East St. Louis in most cases from 15 of the 18 points shown in my exhibit, so that from other points in [fol. 1549] Illinois in Western Trunk line territory, by using Chicago as basing point, the proportions of the Western Trunk lines will generally exceed their local rates on basis of mileage prorate using Chicago as the basing point. On sheet 3 of Mr. Wescoat's exhibit No. A-253, per cents and resulting divisions in cents per 100 pounds are shown on each of the ten class rates between Chicago and Shreveport via East St. Louis (6133-6134).

That exhibit shows that on seven of the ten classes on present basis of divisions Western Trunk lines would receive in excess of their local rates, and are receiving their full current local rates by reason of provision in division sheet omitting lines north and south of East St. Louis to their local rates as maximum. That exhibit also shows Southwestern lines on present basis of divisions receive on all classes considerably less than the local between East St. Louis, Ill., and Shreveport, La. Mr. Westcoat shows percentages between Chicago, Ill., proper and Shreveport, La., only, whereas the same per cents are also applied to and from all points in Western Trunk line territory taking the same joint through rates as Chicago, and because Chicago territory extends to within a short distance of East St. Louis on the present basis of divisions, using Peoria, as example, and a number of other important points, Western Trunk lines in all cases are receiving their full local rates, and Southwestern lines always receive less than their local rates. Sheet 5 of my exhibit A-168 shows the local rates between 18 Illinois points and East St. Louis. On mileage prorate basis shown on sheet 3 of Mr. Westcoat's exhibit A-253, the Western Trunk lines on seven of the ten classes would be [fol. 1550] receiving in excess of their local rates on Chicago-Shreveport traffic. The same sheet shows on the present basis of divisions Western Trunk lines are receiving 94.2 per cent of their local rates and Southwestern lines 81.6 per cent. This showing is based on the average of the ten classes. Mr. Westcoat also shows on this sheet, divisions between Chicago and Shreveport via East St. Louis on a rate prorate, using current rates as factors, the average of which would result in division of 25½ per cent to Western Trunk lines and 74½ per cent to Southwestern lines, whereas Western Trunk lines on present basis are receiving 30 per cent. This practically confirms the basis shown on sheet 7 of my exhibit A-168, wherein I showed an average proportion of 23.4 per cent to Western Trunk lines. The division of 30 per cent to Western Trunk lines applies between all points in Western Trunk line territory taking Chicago rates, and extends to within a short distance of East St. Louis. The division is applicable to and from other Louisiana common points, as pointed out by Mr. Westcoat on page 5778 of the transcript, viz: Shreveport, Pineville,

Monroe, West Monroe, Boyce, Alexandria and intermediate points, so that by taking the several Louisiana common points shown on page 7 of my exhibit A-168 into consideration, the Western Trunk lines would receive on a rate prorate approximately 23½ per cent as compared with 30 per cent they now receive. In working out a rate prorate Mr. Westcoat used as factors the full current local rates between Chicago and East St. Louis, which reflect an advance in the 5 per cent case not reflected in the joint through rates, and 40 per cent under I. C. C. Ex Parte 74 as compared with 35 per cent fixed by the I. C. C., notwithstanding which the rate prorate basis as shown by Mr. Westcoat allows Western Trunk lines 25½ per cent as compared with 30 per cent they currently receive, so that the rate prorate basis shown [fol. 1551] by Mr. Westcoat results in practically the same percentage for Western Trunk lines as proposed on my exhibit A-168, by use of rate prorates on average mileages.

On Mr. Westcoat's exhibit A-254, page 2, divisions are shown as currently in effect between Chicago, Ill., and Shreveport, La., via Cairo, Gale or Thebes, Ill. It will be noted that the division of 40 per cent would result in the Western Trunk lines receiving on all of the ten classes in excess of their local rates by a straight application of the per cents, but because the division sheets carry provisions limiting lines north and south to local rates as maximum, Western Trunk lines on all classes receive their full current local rates and Southwestern lines receive 75 per cent of their local rates. Percentages are also shown on Sheet 2 of that exhibit based on a mileage prorate without limiting lines north or south to local rates as maximum, and it results in a percentage for the Western Trunk lines higher than the present division of 40 per cent so that Western Trunk lines would in all cases exceed their local rates considerably, and Southwestern lines would receive about 60 per cent of their local rates. The same condition would exist at other Louisiana common points taking the 40 per cent division. All that Mr. Wescoat shows as to Shreveport, La., divisions confirms what I said as shown on page 5313 of the transcript (6134-6137).

On Mr. Wescoat's exhibit A-254, divisions are also shown between Chicago, Ill., and Randolph, Natchitoches, Opelousas, and Bunkie, La., via Cairo, Gale, or Thebes, Ill., on a

mileage prorate. With the exception of two classes to Opelousas, on that basis, Western Trunk lines in all instances would be receiving greatly in excess of their full local rates and Southwestern lines would receive less than their full current local rates. For example, at Randolph, [fol. 1552] the Western Trunk lines would be receiving 35 per cent in excess of their full current local rates based on the average division of the ten classes, and Southwestern lines would be receiving 38 per cent less than their locals. Similar comparison prevails at other points named. That shows conclusively what the result would be by the use of a "wheelage" prorate. I use the term "wheelage" because a mileage prorate reflects no considerations other than wheelage.

Mr. Wescoat's exhibit A-255 shows divisions between Milwaukee, Wis., and certain points in Louisiana via East St. Louis. Sheet 3 of that exhibit shows that currently, the Western Trunk lines are receiving on seven of the ten classes their full current local rates and that on the average Western Trunk lines are receiving currently 97.2 per cent of the local rates and Southwestern lines 78.2 per cent of their local rates. I do not know what basis of divisions was used in the preparation of that sheet, but the proportions north and south of East St. Louis as shown thereon are incorrect. The basis in effect as published in current division sheets, placed in this record, allow Western Trunk lines 30 per cent of the through rates, plus the original Milwaukee spread over Chicago territory rates, beginning with nine cents on first class. The divisions shown by Mr. Wescoat result on seven of the ten classes in the Western Trunk lines receiving in excess of their local rates and on that account the local rates have been shown as their division. Sheet 3 of my exhibit A-171 also shows on basis of the actual divisions in effect, the Western Trunk lines are receiving their full current local rate on seven of the ten classes on mileage prorate. Basis shown by Mr. Westcoat, the Western Trunk lines on all of the ten classes would receive in excess of their full current local rate and Southwestern lines would receive considerably less than their [fol. 1553] full current rates (6137-6138).

There is also shown on Mr. Wescoat's exhibit A-255, divisions between Milwaukee, Wis., and Randolph, Natchi-

toches, Opelousas and Bunkie, La., via East St. Louis, indicating what the percentages and divisions in cents per 100 pounds on each class, and the average of the ten classes will yield to the Western Trunk lines and to the Southwestern lines based on a mileage prorate. It shows that at Randolph, La., on each of the 10 classes, the Western Trunk lines would receive considerable in excess of their full current local rates, and on the average to the extent of 23.7 per cent in excess of their locals, and that the Southwestern lines would be receiving 33.8 per cent less than their locals, the latter also based on the average. A somewhat similar situation exists at the other three points named, except that the Western Trunk lines would receive on 7 of the 10 classes considerably in excess of the full current local rates, and the Southwestern lines would receive considerably less than their local rates in all cases, and that the shrink by the Southwestern lines below their local rates would exceed the amounts that the Western Trunk lines would receive in excess of their local rates. Another feature is that the local rates between Milwaukee and East St. Louis currently in effect reflect the advances made in the 5 per cent case, which was not at any time reflected in the joint through rates, and the local rates of the Western Trunk lines also reflect a 40 per cent advance under I. C. C. Ex Parte 74, whereas the through rates under the same order reflected an advance of 35 per cent, so that if the 5 per cent advance was not taken into consideration, and additionally [fol. 1554] a 35 per cent advance was applied under I. C. C. Ex Parte 74 to the local rates between Milwaukee and East St. Louis, the divisions of the Western Trunk lines based on mileage as compared with the local rates on that basis would show a greater spread in excess of the locals to the Western Trunk lines than shown on Mr. Wescoat's exhibit A-255, so that based on mileage, which takes into consideration only wheelage and nothing else, as reflected by that exhibit, the Western Trunk lines in all cases would be receiving in excess of their present locals on practically all classes, and the Southwestern lines would be receiving considerably less than their local rates on all classes without exception. The percentage relationship shown on that exhibit of the divisions currently in effect to the local rates of the Western

Trunk lines is not proper because as just pointed out, the local rates of the Western Trunk lines reflect several increases not reflected in the joint through rates. On page 5782 of the transcript, Mr. Wescoat stated that in my exhibit A-175, I attempted to show the proportions allowed the lines north and west of St. Louis is a shrink in the Southwestern lines proportion, and that this was hardly fair to the Northern lines as they could not be expected to handle the traffic for nothing. Naturally on account of the St. Louis rates being applied from St. Louis territory in Missouri, whatever division is allowed the Western Trunk lines west of St. Louis, Mo., must be assumed by the Southwestern lines. I did not indicate in my testimony Southwestern lines expected the Western Trunk lines to handle traffic for nothing. This is indicated quite clearly on pages 5343, 5344, 5345, and 5346 of the transcript. I did, however, propose a different basis for the Western Trunk lines than now in effect, and I pointed out there was necessity for broadening out the divisions because the divisions between points in St. Louis territory and points in Louisiana were [fol. 1555] now in effect apply only from and to a very limited number of points within St. Louis territory, and that the divisions should be broadened out to include all points in St. Louis territory in connection with which I proposed the same basis for the Western Trunk lines as proposed on Arkansas traffic because the through rates to Louisiana points as compared with Arkansas points reflected the spread in their service, and that the service of the Western Trunk lines between points in St. Louis territory and St. Louis, Mo., was the same on Louisiana traffic as on Arkansas traffic (6137-6141).

Sheet 1 of Mr. Wescoat's exhibit A-256 on Monroe, La., traffic, reproduces the same divisions as shown in my exhibit A-175 in addition to which it shows that the Western Trunk lines currently are receiving 79.5 per cent of their local rates, and the Southwestern lines 74.2 per cent of their local rates based on the average of the 10 classes. On Alexandria and Shreveport traffic the divisions as shown by Mr. Wescoat on the same exhibit are a reproduction of the divisions shown on my exhibit A-175 in addition to which Mr. Wescoat shows that the Western Trunk lines

are receiving 84.6 per cent of their local rates based on the current divisions, and Southwestern lines 74.1 per cent. On sheet 2 of Mr. Wescoat's exhibit A-256, the divisions as currently in effect are the same as shown in my exhibit A-175, and in addition, Mr. Wescoat has shown that the current divisions as received by the Western Trunk lines are 55.9 per cent of their local rates, and the divisions of the Southwestern lines are 83.4 per cent of their local rates. I speak of Lake Charles, La., St. Louis territory extends from St. Louis to practically Kansas City, Mo. The short line distance St. Louis to Kansas City is 279 miles. The average mileage would be 140 miles. The distance, St. Louis to Lake Charles, is 700 miles, and if handled via the [fol. 1556] Missouri Pacific over our east side lines, which is the route the traffic would naturally move, the distance is slightly in excess of 700 miles, however, using the latter distance on a mileage prorate, and the average distance 140 miles for the Western Trunk lines, the divisions to the Western Trunk lines would be 16.7 per cent, and applying that percentage to the average rates from St. Louis territory to Lake Charles shown in Mr. Wescoat's exhibit of $1.136 would result in an average division of 19 cents per 100 pounds. The average divisions on the current basis of divisions is 18.9 cents shown by Mr. Wescoat so that the divisions received by the Western Trunk lines currently reflect approximately a mileage prorate if St. Louis territory is to be taken as a whole, and the average mileage applied. At Lafayette and Donaldsonville, La., which points reflect a still greater haul for the Southwestern lines, on the basis of mileage the Western Trunk lines would receive less than at Lake Charles, although under the current basis of divisions they are receiving approximately the same revenue as Mr. Wescoat's exhibit indicates (6141-6143).

Mr. Wescoat's exhibit A-260, shows divisions on agricultural implements, Chicago, Ill., to Dallas, Houston and Fort Worth, Texas, via East St. Louis. It shows that the Western Trunk lines currently on Dallas and Fort Worth traffic are receiving their full current local rates, and that the Southwestern lines are receiving 95.9 per cent of their local rates. On Houston it shows that the Western Trunk lines are receiving 2.6 cents per 100 pounds less than their

local rates, and the Southwestern lines are receiving 8.9 cents less than their current local rates, and reduced to per-
[fol. 1557] centages the Western Trunk lines are receiving 89.8 per cent of their local, and the Southwestern lines 91.1 per cent of their local. The percentage relationship to the local rates shows very little disparity, but the actual divisions in cents per 100 pounds below the local rates shows a considerable disparity indicating that percentage relationships are misleading when not applied to the actual divisions in cents per 100 pounds. It also shows that on a rate prorate to Houston, the Western Trunk lines would receive within eight-tenths of 1 cent per 100 pounds less than their local rate, and the Southwestern lines would receive 3.2 cents less than their local rate. At Houston it shows the Western Trunk lines would receive 2.4 cents less than their local, and the Southwestern lines 9.1 cents less than their local. On the mileage prorate basis shown on that exhibit, it indicates that the Western Trunk lines to Dallas would receive 46.3 per cent in excess of their local rate, 38 per cent in excess of their local rate at Fort Worth, and 14.5 per cent in excess of their local rate to Houston, whereas the Southwestern lines would receive 85.4 per cent, 87.3 per cent and 84.9 per cent of their local rates respectively. This indicates clearly what mileage prorates reflect (6143-6144).

Mr. Wescoat's exhibit A-261, covers divisions on Iron and Steel Articles Chicago, Ill., to Dallas, Houston, and Fort Worth, Texas. It shows that via East St. Louis the Western Trunk lines on the present basis of divisions are receiving 16.8 cents per 100 pounds as compared with the local rate of 17.5 cents, or seven-tenths of 1 cent less than their local rate, and that the Southwestern lines are receiving 67.2 cents per 100 pounds on the current basis of divi-
[fol. 1558] sions as compared with the local rate of 73 cents, or 5.8 cents per 100 pounds less than their local rate. Reduced to percentages it shows the Western Trunk lines are receiving 96 per cent of the local rate, and the Southwestern lines 92.1 per cent of their local rates. On the rate prorate basis it shows the Western Trunk lines would receive 16.2 cents per 100 pounds to the three destinations named as compared with their present division of 16.8 cents, in other words, a rate prorate basis would allow the

Western Trunk lines less revenue than they now receive. On the mileage prorate basis shown on that exhibit, the Western Trunk lines would receive in excess of the local rates to the extent of 38.3 per cent, 22.2 per cent and 41.7 per cent respectively, and that the Southwestern lines would receive 81.9 per cent, 85.8 per cent and 81.1 per cent of their local rates (6144-6145).

Mr. Wescoat's exhibit A-262 shows divisions on Molasses from New Iberia, La., to Chicago, Ill., and Clinton, Iowa, via East St. Louis. It shows the divisions north and south of East St. Louis as currently in effect on the basis of Texas percentages compared with rate prorates and mileage prorates. The rates on molasses from New Iberia are the same as the rates on molasses from New Orleans, and heretofore the Western Trunk lines have always demanded and taken New Orleans divisions. The New Orleans percentages, to Chicago via East St. Louis for the Western Trunk lines are 33 per cent, first deducting river transfer of 3 cents. This allows the Western Trunk lines 13.2 cents per 100 pounds, and the Southwestern lines 29.8 cents per 100 pounds as compared with the local rate of the Western Trunk lines of 16 cents, and the local rate of the Southwestern lines of 38 cents, which indicates that the Western Trunk lines are exacting a division of 2.8 cents per 100 pounds less than their local, and the Southwestern lines [fol. 1559] are receiving 8.2 cents per 100 pounds less than their local. Even on the basis of a mileage prorate, the Western Trunk lines would receive less as shown by Mr. Wescoat in his exhibit referred to. To Clinton, Iowa, from East St. Louis, Mr. Wescoat has shown the divisions based on Texas percentages, whereas the Western Trunk lines are not applying Texas percentages but are applying New Orleans percentages or 40 per cent to the Western Trunk lines. This results in the Western Trunk lines receiving 17.2 cents, and the Southwestern lines 25.8 cents. In other words, the Western Trunk lines are receiving 10.3 cents per 100 pounds less than their class rate from East St. Louis to Clinton, Iowa, Southwestern lines are receiving 12.2 cents less than their commodity rate to East St. Louis, and 79.7 cents per 100 pounds less than their 5th class rate to East St. Louis. It also shows that on a rate prorate, the Western Trunk lines would be receiving considerably more

than on an actual mileage prorate, and that an actual mileage prorate would allow the Western Trunk lines considerably less than they are now demanding on the basis of the New Orleans percentages as pointed out above (6145-6147).

Mr. Wescoat's exhibit A-263, shows divisions on Oyster Shells from Berwick, La., to St. Paul, Minn., and from New Orleans to the same destination via East St. Louis. It indicates that the Western Trunk lines are receiving 10.6 cents per 100 pounds from Berwick, La., and 20.6 cents from New Orleans. The rates on Oyster Shells from Berwick, La., are the same as from New Orleans. The exhibit shows that. The Western Trunk lines, with the exception of one, in the past have always demanded New Orleans percentages on traffic from interior Louisiana points from which the same rates are published on commodities as from New Orleans. On that basis from New Orleans the West-[fol. 1560] ern Trunk lines are receiving 4.4 cents less than their class rate from East St. Louis, and the Southwestern lines are receiving 3.6 cents less than their commodity rate to East St. Louis, and 31.3 cents per 100 pounds less than their Class "E" rate to East St. Louis. This would be the relationship from Berwick based on the settlements that have been made for a number of years by the Western Trunk lines. On a rate prorate from Berwick, the Western Trunk lines would receive 18.4 cents or less than they are taking at the present time, and on a mileage prorate from Berwick the Western Trunk lines would receive 18.5 cents, which is also less than the divisions they have demanded and taken. The percentage relationship of mileage prorate to local rates shown on Mr. Wescoat's exhibit compares the divisions based on a mileage prorate to the class rate from East St. Louis to St. Paul for the Western Trunk lines, and to the commodity rate for the Southwestern lines. That does not seem to be a fair relationship. On the same exhibit, Mr. Wescoat also shows divisions on Oyster Shells from Berwick, La., to Muscatine, Iowa, via East St. Louis on the basis of Texas percentages. The local rate from East St. Louis, Ill., to Muscatine, Iowa, of 16 cents shown on that exhibit is the class rate, and the local rate from Berwick, La., to East St. Louis, Ill., of 33.5 cents is the commodity rate. That exhibit indicates the Western Trunk lines on the basis of divisions shown on that exhibit are re-

ceiving 8.9 cents less than their class rate from East St. Louis to Muscatine, Iowa, that the Southwestern lines are receiving 2.1 cents less than their commodity rate to East St. Louis, but it does not show that the Southwestern lines are receiving 22.1 cents less than their Class E rate to East St. Louis. In other words, comparison of the divisions to the class rates for the Western Trunk lines and to the commodity rates for the Southwestern lines is not a fair com- [fol. 1561] parison. There is no movement of oyster shells from East St. Louis, but there is a movement of oyster shells from Berwick, La., and a substantial one, which is the reason why commodity rates were necessary from that point, and why no commodity rates are necessary from East St. Louis. Divisions are also shown on that exhibit, and the result based on a rate prorate, using as factors the class rate for the Western Trunk lines and the commodity rate for the Southwestern lines. It will be noted that even on a mileage prorate as shown on that exhibit, the Western Trunk lines would receive less revenue than on a rate prorate, indicating that rate prorates can hardly be defended unless like factors were used. Similarly, the percentage relationship of a mileage prorate to local rates shown on Mr. Wescoat's exhibit A-263 does not seem to be logical for the reason that the percentage relationship of the divisions for the Western Trunk lines is compared with the class rate, whereas the relationship for the Southwestern lines is compared with the commodity rate. If the relationship for the Southwestern lines was compared with our class rate, it would show 53.1 per cent instead of 84.8 per cent shown by Mr. Wescoat (6147-6149).

On page 5789 of the transcript, Mr. Wescoat speaking of the application of Texas per cents on oyster shells from Berwick, La., stated—"However, this basis is used for the reason that the Southwestern lines will not agree to any other basis." It is true that the Southwestern lines maintain Texas percentages should be applied in the division of rates to and from interior Louisiana points south of the Shreveport-Monroe-Alexandria Group, because that was the original arrangement, and was published by the Western Trunk lines in their individual division sheet as pointed out in my testimony on pages 5298 and 5299 of the transcript. Regardless of that on northbound commodities

[fol. 1562] from interior Louisiana points from which the same rates are in effect as from New Orleans, the Western Trunk lines have and are dividing such through rates by the use of the New Orleans percentages, and not Texas percentages. The settlements are in their hands. I pointed this out on page 5351 of the transcript in connection with divisions on sugar and other commodities, and quoted from decision of the I. C. C. in Docket No. 11893 in which the Commission condemned the principle of the Western Trunk lines applying New Orleans percentages for their account on sugar from interior Louisiana points taking the same rate basis as New Orleans. On page 5789 of the transcript Mr. Wescoat also refers to the divisions on oyster shells from interior Louisiana points to C. F. A. points, pointing out that the Southwestern lines petitioned the C. F. A. lines to publish through rates and agreed to accept a fixed proportion to East St. Louis of 20.5 cents, which is less than the Southwestern lines are receiving on traffic to Western Trunk lines points. It is true that the Southwestern lines requested the concurrence of the C. F. A. lines for the establishment of a through commodity rate on Oyster Shells from Berwick, Houma and Morgan City, La., and the C. F. A. lines agreed to the publication of the through rates proposed by the Southwestern lines which are the New Orleans rates. There was no movement of oyster shells to C. F. A. points, and the industries at the three shipping points indicated desired to extend the territory because C. F. A. territory, in their opinion, would, in the future, be a large consumer, but the traffic could not move on the present combination of local rates to St. Louis and the class rates beyond. The Southwestern lines were anxious to have the rates established at the earliest possible date, and proposed a basis of divisions entirely different from that accepted, but rather than delay the [fol. 1563] publication of the rates, agreed to accept 20.5 cents, which was as a matter of fact the proposal made by the C. F. A. lines and not the Southwestern lines, however, the divisions between the Southwestern lines and the C. F. A. lines are not involved in this proceeding, and what the Southwestern lines accept on C. F. A. traffic has no bearing on the situation any more than if I attempted to point out what the Western Trunk lines were accepting on

Transcontinental traffic for comparative purpose, or any other territory (6149-6152).

On Mr. Gillette's exhibit A-265 on cheese, it shows the local class rate, Green Bay, Wis., to East St. Louis, Ill., at 64 cents and that the divisions received by the Western Trunk lines are 54.7 per cent of their class local. On the other hand, that exhibit shows the local commodity rate, East St. Louis, Ill., to Texas common points $1.26, and the division received by the Southwestern lines is 95.2 per cent of their commodity local. The comparison shown is of the local cheese rate of the Western Trunk lines and the commodity rate of the Southwestern lines. The 3rd class rate, East St. Louis to Texas common points, is $1.58, and the division received by the Southwestern lines is 76 per cent of the local rate. This comparison is made on the divisions shown by Mr. Gillette in that exhibit, and is based on allowing the Southwestern lines south of East St. Louis, Ill., 68 per cent of the 3rd class rate from Milwaukee, Wis., to Texas common points, $1.765 as against a through commodity rate of $1.55 from the cheese shipping points located in the Wisconsin group.

The Western Trunk lines have never called that situation to the attention of the Southwestern lines except in this proceeding. I might say, however, for the benefit of this record, that the Southwestern lines voluntarily docketed this subject with the Southwestern Freight Bu- [fol. 1564] reau some time ago for consideration of the Southwestern lines, and with a view of discussing and arranging divisions on this particular traffic with the Western Trunk lines. No proposal has yet been made, due to lack of time, principally, on account of this proceeding.

The Southwestern lines fully recognize that where situations exist as pointed out by Mr. Gillette, on cheese, that some modification in the basis is necessary. Naturally, in the meantime, and until the present basis is modified, the accounting departments will continue to apply the division sheets as they read, and cannot do otherwise (6152-6153).

On page 5808 of the transcript Mr. Gillette points out the divisions fixed 35 or 40 years ago accords Southwestern lines south of Missouri river and St. Louis, Milwaukee revenue from the so-called Fox river territory, and on page

5811 of the transcript Mr. Gillette expresses the opinion that this is simply a trick division basis. If it is a trick division basis, the Western Trunk lines have tricked themselves, because the divisions are and have been published by the Western Trunk lines, as well as the Southwestern lines. I refer to Chicago & St. Louis Traffic Association Division Sheet No. 107 which published the same basis as shown in Southwestern lines Division Sheet No. 40 mentioned by Mr. Gillette on page 5814 of the transcript.

The Western Trunk lines maintain there is no commodity rate on cheese from Milwaukee, Wis., and because Southwestern lines receive Milwaukee revenue, and that class rates are in effect from Milwaukee territory which are higher than the commodity rates on cheese from Wisconsin [fol. 1565] cheese producing points, that the basis for the divisions is wrong. The situation can be remedied if the Western Trunk lines arrange for publication of a commodity rate from Milwaukee, Wis., and as pointed out by Mr. Grace, the Chicago commodity rate would be published from Milwaukee, Wis., if requested. The Chicago commodity rate is $1.37 per 100 pounds, and if that rate was published from Milwaukee, Wis., Southwestern lines would receive a division of $1.37. The spread, Green Bay and other Wisconsin cheese shipping points located in the Wisconsin group, over the Milwaukee commodity rate, in that event, would be 18 cents per 100 pounds, and the complaint made by Mr. Gillette would be remedied. The remedy seems to lie in the hands of the Western Trunk lines, but apparently they have not taken advantage of the situation (6153-6154).

On page 5814 of the transcript, Mr. Gillette states, "as the absolute minimum, the Northern lines should not receive less than the Milwaukee division of the rate on which the business is moving." If the Western Trunk lines proceed to establish the Chicago commodity rate from Milwaukee, Wis., as pointed out above, the result will be that the Western Trunk lines would receive a spread of 18 cents per 100 pounds, and they would receive more revenue than suggested by Mr. Gillette. When the basis of divisions was originally established between Milwaukee, Wis., and group and Texas points via Missouri and Mississippi river crossings, the through rates to and from Milwaukee, as pointed

out by Mr. Dana and myself, were based on fixed differentials over Chicago, and Fox river territory similarly. Later the Milwaukee differentials were wiped out entirely and the Chicago differentials were made to apply to and from Milwaukee territory, which made a corresponding reduction in the rates to and from Fox river territory. The basis of [fol. 1566] divisions to and from Milwaukee and Fox river territory when originally arranged was apparently sound, and would have continued so had not the Western Trunk lines discontinued the original Milwaukee spread over Chicago. The divisions as now in effect are merely what they were originally, and it cannot be said that they are trick divisions. The situation on traffic to and from Fox river territory complained of in many respects is similar with that which exists in Texas differential territory. From time to time the Southwestern lines have been obliged to extend the Texas common point rates to certain points formerly located in differential territory. Frequently, the differentials to and from differential territory in Texas have been reduced, and only quite recently the differentials have been reduced substantially on traffic to and from points on the St. L. B. & M. Ry. The Southwestern lines have assumed all of the shrink in such cases, and have not complained to the Western Trunk lines (6154-6156).

We have a situation at Texas border points applicable on Mexican traffic to and from which frequently the rates are no higher than to and from Texas common points, and sometimes the rates are lower, although the traffic passes through differential territory. In such cases the Southwestern lines are performing additional service as compared with the service to and from Texas common points that is considerably greater than the additional service performed by the Western Trunk lines; Fox river territory as compared with Milwaukee, but here again no complaint has been made by the Southwestern lines, so that the situation is not onesided as depicted by Mr. Gillette.

On page 5816 of the transcript Mr. Gillette, in connection with his exhibit A-266, points out that divisions on Okla- [fol. 1567] homa and Arkansas traffic provide that lines south of St. Louis and Missouri river gateways receive their established percentage of the Chicago rates. As to Oklahoma traffic via the St. Louis gateway, the divisions are pub-

lished in Illinois Freight Committee Division Sheet 3-C, and do not apply to or from points on the C. & N. W., C. M. & St. P., and Soo lines, special provision being published in that division sheet for account of those lines to that effect, so that so far as points on the three lines named are concerned, there are no divisions via the St. Louis gateway to and from Oklahoma, therefore, Mr. Gillette's statement is incorrect. As to Arkansas, the lines south of St. Louis do not receive Chicago revenue as stated by Mr. Gillette, except to a few points located on the Oklahoma-Arkansas border. Southwestern lines receive Milwaukee revenue except to Oklahoma-Arkansas border points, and on that basis the Western Trunk lines are accorded fixed arbitraries over Chicago that do not exist in the through rates, because the Chicago rates are applicable to and from Milwaukee group, although the Southwestern lines have continued to allow the Western Trunk lines the original spread in the rates advanced and reduced in accordance with the several general advances and the one general reduction. There are no divisions whatsoever between points in Western Trunk line territory east of the Mississippi river and Arkansas points on the Missouri Pacific and St. Louis Southwestern Railroads via Kansas City, Mo., and I have been advised by the Kansas City Southern that they operate no divisions except to points on the western border of Arkansas, such as Fort Smith, Van Buren, etc. (6156-6157).

It is very improbable that divisions will ever be arranged between Western Trunk line territory east of the Mississippi river and Arkansas as a whole via Kansas City, Mo., [fol. 1568] because there is no necessity therefor. There have been only occasional movements via that gateway. This because the route is circuitous as compared with St. Louis, and so much so that, regardless of no restrictive applications being published in the tariffs, the traffic has continued to move through the St. Louis gateway.

On page 5 of Mr. Gillette's exhibit A-267 divisions are shown on peaches from Texas common points to Green Bay, Wis., and the percentage relationship that the divisions bear to the local rates of the Western Trunk lines and the Southwestern lines. Mr. Gillette shows the local class rate St. Louis to Green Bay to be 45.5 cents, and that on the present basis of divisions the Western Trunk lines receive 73.4 per

cent of the class local, and the Southwestern lines 97.5 per cent of their commodity local. I check the class rate St. Louis to Green Bay as 64 cents, that being the 3rd class rate published in the same tariff quoted by Mr. Gillette. Therefore the percentage relationship of the revenue of the Western Trunk lines to the third class rate would be a little over 50 per cent. On the other hand, the revenue of the Southwestern lines as compared with their third class rate is about 50 per cent so that the relationship that the divisions bear to the class rates is about the same. I do not think it proper to compare relationships to class rate for the Western Trunk lines, and to commodity rates for the Southwestern lines (6157-6158).

The class rate from St. Louis shown on Mr. Gillette's exhibit is a paper rate. It moves no traffic. As an illustration, commodity rates are published from the peach producing districts in southern Illinois to Green Bay, Wis., of 58.5 cents in Western Trunk line tariff No. 6-0, I. C. C. No. A-1647, Item No. 2660. I refer to Anna and Cobden, Ill. [fol. 1569] The distance from Anna and Cobden, Ill., to Green Bay, Wis., is greater than from East St. Louis, although commodity rates from those two points are lower than the class rate from East St. Louis. That apparently indicates the East St. Louis class rate is a paper rate in so far as peaches are concerned.

Mr. Behrle's exhibit A-275 shows the amount of switching absorbed by East St. Louis-Chicago lines on traffic handled during the month of June, 1924, viz., the C. & A., C. & E. I., I. C., and Wabash Railroads, amounting to $15,189.93. A check of Illinois Freight Association Tariff Bureau Tariff No. 22-R, I. C. C. No. 55, shows the following number of industries located within the Chicago switching district on those lines:

On the C. & A. Railroad	76
On the C. & E. I. Railroad	24
On the I. C. Railroad	205
On the Wabash	28
Total	333

and that the total number of industries located on all Western Trunk lines combined parties to this proceeding, in the

Chicago switching district is 1,983, so that there are 333 industries located on the four lines shown on Mr. Behrle's exhibit A-275, and 1,650 industries served by other Western Trunk lines parties to this proceeding located in the Chicago switching district. In addition there are 1,891 industries located on exclusive switching lines listed in that tariff. There are 759 industries located on road haul carriers other than Western Trunk lines. I have selected the C. & A., C. & E. I., I. C. and Wabash Railroads because the switching absorptions shown on Mr. Behrle's exhibit A-275 reflect the amount of switching absorbed by those four lines.

This proceeding is between the Western Trunk lines as [fol. 1570] a whole and the Southwestern lines, so that of the total number of industries listed in that tariff, within the Chicago switching district of 4,633, 42.8 per cent are located upon the rails of Western Trunk Lines parties to this proceeding, and whatever switching charges are paid out by the C. & A., C. & E. I., I. C., and Wabash Railroads to other Western Trunk lines parties to this proceeding apparently should not have been included in this exhibit, because a large percentage of the switching charges as paid out by those four lines is paid to other Western Trunk lines that serve the industries, and does not affect the earnings of the Western Trunk lines as a whole (6159-6160).

40.8 per cent of the industries listed to that tariff are located on so-called exclusive switching lines, and the amount of absorptions paid to those switching lines, taking lumber as an illustration, does not approach the amount of divisional allowances made by the Southwestern lines to so-called tap lines, which divisions have been fixed by the Interstate Commerce Commission in I. & S. No. 11. 16.4 per cent of the industries in the Chicago switching district are located on road haul lines not a party to this proceeding.

I desire to mention for the record there is no intermediate switching at East St. Louis between the Missouri Pacific or St. Louis Southwestern Railroads and the Illinois Central Railroad, because there is a direct connection between these lines, therefore the intermediate charge of $4.95 on northbound and southbound business is not involved.

Bridge tolls absorbed by Southwestern lines have been shown by Mr. Behrle, but apparently on southbound car-

load traffic interchanged at East St. Louis, the intermediate switching charge absorbed by the Southwestern lines is not shown. This is an added expense to the Southwestern lines, [fol. 1571] the same as on northbound traffic for the Western Trunk lines, except in connection with the Illinois Central Railroad.

The Southwestern lines also have switching absorptions, but it would be an almost impossible task to go over the billing to cover traffic handled to and from all terminal points in the Southwest in order to make a similar comparison showing the amounts of absorptions that the Southwestern lines pay to each other (6161-6162).

Mr. Hoffelder's exhibit A-279, shows divisions on petroleum products via East St. Louis from one representative point in Arkansas, Louisiana and Texas on which appears the present divisions, and what the divisions would be by the use of a mileage prorate and a rate prorate, in the latter case using commodity locals as factors. The rate prorate basis as shown on that exhibit allows the Western Trunk lines only one-half cent per one hundred pounds less than an actual mileage prorate as shown on that exhibit on refined oil, and on crude oil and asphalt the rate prorate basis would allow the Western Trunk lines more than an actual mileage prorate as shown by that exhibit. The local rate of 17.5 cents, East St. Louis to Chicago, is applicable on refined and crude oil and asphalt, in short on all kinds of low grades of oil, whereas, the rates from El Dorado, Ark., and Shreveport, La., on crude oil are 6.5 cents per one hundred pounds less than on refined. I have developed that there is a very light movement of refined oil from East St. Louis to Chicago that moves on the 17.5 cent rate, but that there is no movement whatever of crude, fuel, road oil or asphalt, so that the commodity rate of 17.5 cents with exception of the light movement on refined oil is never used, and is a paper rate on low grade oils which is the bulk of [fol. 1572] the movement from the Arkansas and Louisana fields, so that it seems improper to use as factor for the Southwestern lines a commodity rate to East St. Louis that moves traffic in substantial volume and a rate from East St. Louis to Chicago that moves no traffic except a small movement of refined oil. As pointed out before, the rate prorate basis shown on that exhibit allows the Western Trunk lines greater revenue than an actual mileage prorate with ex-

ception of a slight difference on refined oil, which apparently indicates that the factor or the local rate north of East St. Louis is out of proportion, particularly on low grade oils. The distance El Dorado, Ark., to East St. Louis shown on that exhibit is 488 miles. The short single line distance is via the Missouri Pacific Railroad and is 500 miles, although a combination of two lines may produce 488 miles. As an illustration the 17.5 cent commodity rate on refined oil East St. Louis to Chicago is 63.6 per cent of the fifth class rate of 27.5 cents for the short single line distance of 279 miles, whereas, the refined oil rate of 29.5 cents, El Dorado, Ark., to East St. Louis, is 32.6 per cent of the fifth class rate of 90 cents for the short line single haul of 500 miles. On crude oil the commodity rate of 17.5 cents East St. Louis to Chicago is also 63.6 per cent of the fifth class rate of 27.5 cents for the short single line haul of 279 miles, and from El Dorado, Ark., to East St. Louis the commodity rate of 24 cents is only 26.5 per cent of the fifth class rate of 90 cents for the short single line haul of 500 miles. From Shreveport, La., the percentage relationship of the commodity rate from that point to East St. Louis of the fifth class rates are 30.3 per cent on refined and 24.6 per cent on crude oil for 560 miles. To further show that the rate prorate basis suggested by Mr. Hoffelder seemingly is improper, I wish to point out that taking the 17.5 cent rate [fol. 1573] which applies on crude oil, East St. Louis to Chicago, the earnings of the Western Trunk lines for 279 miles would be 12.5 mills per ton one mile, while on a local movement from El Dorado, Ark., to East St. Louis of 500 miles, the earnings of the Southwestern lines are 9.6 mills per ton one mile, whereas, the through rate, El Dorado to Chicago of 29.5 cents on crude oil based on 779 miles results in 7.6 mills per ton one mile for the through haul, origin to destination. That indicates that the rate of 17.5 cents, East St. Louis to Chicago, Ill., is inflated when compared with the rate, El Dorado, Ark., or Shreveport, La., to East St. Louis of 24 cents, also as compared with the through rate, El Dorado, Ark., or Shreveport, La., to Chicago of 29.5 cents, in fact as I pointed out the 17.5 cent rate moves no crude oil or any other low grade oils, so that it is a paper rate (6162-6164).

As I see it, there is less merit in the rate prorate basis or the mileage prorate basis shown in Mr. Hoffelder's ex-

hibit A-279 than in the basis proposed and as shown in my exhibit A-182. In that exhibit I have attempted to bring about uniform relationships. Further, I have shown in that exhibit the fifth class accepted arbitrary north of East St. Louis is 20.5 cents, and that the through commodity rate on refined oil, El Dorado, Ark., to Chicago is 35.6 per cent of the through fifth class rate, and applying that percentage to the fifth class division published in Illinois Freight Association Division Sheet No. 5, the Western Trunk lines north of East St. Louis would earn less than under propositions 1, 2 or 3 as shown on that exhibit. That is not a theory. If through percentages were in effect the same result would follow, and does follow on traffic moving between points where there are through percentages, for example, through percentages are in effect on Texas traffic that allow the Western Trunk lines between Chicago and [fol. 1574] East St. Louis, Ill., 20 per cent or 7.7 cents on refined oil, 6.4 cents on crude oil, and 6.5 cents on road oil, and if percentages other than 20 per cent were used, a similar result would follow. On my exhibit A-168, I have shown a division of 23.5 per cent based on a rate prorate using the average rates from 18 or 20 Illinois points, and by the use of the same Illinois points on a mileage prorate, the division for the Western Trunk Lines would be 23.9 per cent. Mr. Wescoat's exhibit A-253, shows for example, between Chicago, Ill., proper and Shreveport, La., on a rate prorate, based on the averages of the 10 classes a division for the Western Trunk Lines of 25.5 per cent, whereas, the present division is 30 per cent. I believe these illustrations demonstrate that the present division of 30 per cent for Western Trunk Lines is excessive.

No mention has been made by Mr. Hoffelder that Chicago is not the only point in Illinois to which there is a substantial movement of oil from the Arkansas and Louisiana fields, and that the present division of 30 per cent for Western Trunk Lines extends practically all over the state of Illinois. That is the reason why on my Exhibit A-168, I worked out an average rate prorate using 18 or 20 Illinois points having a population of 10,000 or more, and similarly a mileage prorate using the same points, which brought about a division of 23.4 per cent for the Western Trunk Lines on the rate prorate basis, and 23.9 per cent on the mileage prorate basis, and between Shreveport and Chi-

cago only, Mr. Wescoat in his exhibit A-253 shows that on the average of the 10 classes the division for Western Trunk Lines would be 25.5 per cent (6165-6166).

Mr. Hoffelder's exhibit A-278, shows there are no divisions on petroleum from El Dorado to Chicago via Kansas [fol. 1575] City. He did not say or show on his exhibit that the Western Trunk Lines are in actual practice exacting the same revenue on oil from El Dorado, Ark., District and from Shreveport as they currently receive from Tulsa, Oklahoma. In other words, as I pointed out in my testimony, the Western Trunk Lines are allowing the Southwestern Lines the same revenue for a haul of 653 miles from El Dorado and 560 miles from Shreveport to Kansas City as the Southwestern Lines receive for a haul of 257 miles from Tulsa, Okla., to Kansas City. On Shreveport, La., Mr. Hoffelder shows that the divisions are 40 per cent for the Western Trunk Lines north of Kansas City to Chicago, but he does not show on this exhibit, that in actual practice, as pointed out above, they are exacting the same revenue as on similar traffic from Tulsa, Okla. This is being done arbitrarily without notifying, advising, or asking the Southwestern Lines if it is satisfactory. Mr. Hoffelder shows that the divisions for the Western Trunk Lines on refined oil based on 40 per cent from Shreveport, La., are considerably less than the agreed division from Tulsa, Okla. Furthermore, as I pointed out, there is no reason why the Southwestern lines should be expected to accept a lower division for their greater service to Kansas City, Mo., as for their service to East St. Louis, and similarly from El Dorado, Ark., District. The through haul from the El Dorado, Ark., District via Kansas City to Chicago is very circuitous, but that does not change the through rates, so that the hauls of the Southwestern Lines are as much greater from the Arkansas-Louisiana fields of production to Kansas City over the hauls to East St. Louis as are the hauls of the Western Trunk Lines from Kansas City, Mo., to Chicago, Ill., as compared with East St. Louis to Chicago, so that being the case, it does not seem proper that one [fol. 1576] group of lines should receive greater revenue for the longer hauls and force the other group of lines to accept less for their longer hauls as for their short hauls, and there is no way of curing a situation of that kind where both groups of lines perform greater service via Kansas City as

via East St. Louis than to equalize the divisions via East St. Louis, whatever they may be. As a matter of fact, the Western Trunk Lines ought to receive greater revenue from Kansas City to Chicago than from East St. Louis to Chicago, and the Southwestern Lines ought to receive greater revenue from the Arkansas-Louisiana fields to Kansas City than to East St. Louis, but it cannot be done except at the expense of one or the other group of lines involved in the haul.

I want to again refer to the rate of 17.5 cents on low grade oils form East St. Louis to Chicago, shown on Mr. Hoffelder's exhibit A-278, as compared with the rates on low grade oils from Kansas City to Chicago, which are lower on crude oil than on refined oil which further goes to show that the theory of a rate prorate via East St. Louis using paper rates north of East St. Louis and going rates for Southwestern Lines is unfair to the Southwestern Lines.

I also desire to point out from Mr. Hoffelder's exhibit A-279 on petroleum from Wichita Falls, Texas, to Chicago, Ill., via East St. Louis, that a mileage prorate from that point would allow the Western Trunk Lines less revenue than they are at present receiving, and that the rate prorate basis using the rates from East St. Louis to Chicago that moves no crude oil results in divisions for the Western Trunk Lines considerably in excess of a mileage prorate.

Answering Mr. Towner's statement that in the course of my discussion of the oil rates I made the statement that the 17½ cent rate on oil from East St. Louis to Chicago was a paper rate, and that there was a very light movement of oil on it, and that it was apparently an inflated rate [fol. 1577] and answering his question whether I did not know that the Commission itself had approved that rate, my answer is that I did not. I found out that there was no movement of low grade, movement from East St. Louis whatever. I understand that rate applies on all grades of oil.

Answering Mr. Towner's question as to what rate the Roxana Company uses in putting all of its oil into Chicago, if it is not that 17½ cent rate, my answer is that that is refined oil. I do not think they have a very large plant there at East St. Louis; probably they have at Wood river. To be frank, I did not check up the rate from Wood river, al-

though probably the same rate is in effect from Wood river as from East St. Louis. If all of the Roxana traffic to Chicago moves on this 17½ cent rate, the way it would from Wood river, then as a matter of fact that rate would move a very considerable volume (6169-6170).

In connection with the absorption at Chicago on lumber, there is quite a large volume of it that is reconsigned in transit, so that as a matter of fact a majority of the shipments will get beyond East St. Louis before the carrier will know where it is to be delivered.

It is my idea that on this traffic to Chicago on which shipping absorptions were made, it should have moved by those Western Trunk Lines on which the deliveries were made in order to prevent the incurring of the absorption expense; I think it should have rightfully delivered to those lines, but when another carrier handles the traffic to an industry located on another road haul line, if they have to absorb that switching charge, I do not think they ought to complain. That is a competitive situation and the probabilities are that if we were to check, we could find a number of similar situations in the southwest (6170-6171).

[fol. 1578] Taking the four lines shown in Behrle's exhibit, those are the four lines between East St. Louis and Chicago. If they expect to participate in the traffic between those points, they have to make those absorptions. If traffic moves over the Western Trunk Lines upon which the deliveries were made, we would have roads like the Northwestern, the Milwaukee and the Burlington. The Burlington route from East St. Louis to Chicago is very circuitous, but it would not require a much longer haul than over the short line of the Milwaukee. The Milwaukee does not reach East St. Louis at all, and that would make a two line haul. It is not true that the carriers have very little to say about how this traffic is routed, there is considerable traffic that is routed by the carriers; we control a good percentage of it I presume; a lot of it is unrouted; a considerable percentage of this traffic is controlled by the Chicago & Eastern Illinois, the Chicago & Alton and the Wabash. I assume that there is a large part of it controlled by the carriers. In addition to that we have the right of the shipper to divert it in transit on any line regardless of the line that hauls it out of East St. Louis to Chicago. I do not think if you in-

vestigate it you will find very much traffic delivered to lines at East St. Louis consigned to some interior Illinois point and from there reconsigned to Chicago. I think you will find probably a large percentage of the traffic reaching Chicago and reconsigned from there.

Q. I agree with you on that. The traffic gets to Chicago. It is there reconsigned, from the rails of the carrier that brought it to Chicago, for delivery on another carrier in Chicago, or say reconsigned to another point.

A. Yes (6171-6173).

[fol. 1579] Redirect examination:

By Mr. Larrimore:

I do not know whether or not the people at Roxanna are building a refinery at Whiting, Indiana. I do not know that there is any movement of crude oil. If they are building a refinery at Whiting, I do not imagine that there would be any material movement from Wood river to Chicago (6173).

[fol. 1580] H. W. Press

The Witness: In referring to the station and yard expenses per ton of revenue freight handled, given on page 33 of my exhibit A-124, witness Parsons in his testimony at Chicago on May 6th, page 5652 of the record, took exception to the use of the tonnage figures on a system basis. He took the position that where certain auxiliary lines of a given system, for some reason or other, make separate returns to the Interstate Commerce Commission, the total number of tons handled should be ascertained on basis of aggregating the number of tons given for each of the lines for which separate returns are made.

I can see absolutely no merit to his contention. By ascertaining the tonnage of a given line, or system, on that basis, considerable duplication of tonnage is brought about, by reason of tonnage interchanged between the several lines of the system being counted two or more times, which is entirely wrong and for which there is no justification.

We have a peculiar situation in the Southwest in that under the laws of the state of Texas the carriers operating in that state are required to maintain separate corporate names and local organizations for lines within the state of Texas, although such lines may form only a part of the line, or an operating division, of a carrier having operations both within and without the state of Texas (6173-6174).

The keeping of separate accounts and the rendering of separate returns for such lines in Texas is merely a matter of bookkeeping and does not in any way alter the fact that those lines form only an operating division, or part of a system, operated and controlled by one management. The major lines in the southwest have operations within and without the state of Texas, such as the Santa Fe, which [fol. 1581] has the G. C. & S. F. Ry. in Texas; the Rock Island and the Rock Island of Texas; the M-K-T and M-K-T of Texas; the Cotton Belt and the Cotton Belt of Texas; the Frisco and Frisco of Texas; the Kansas City Southern, which has the Texarkana & Ft. Smith Railway in Texas.

The lines in Texas of these several carriers from the standpoint of the physical handling of traffic are operated like any other part of their system: The fact that they cross an imaginary line at the Red river does not require that tonnage handled across said line be counted twice, once north of the line and once south of the line. It would be entirely wrong to make two counts of such tonnage. We, of course, keep separate accounts for the operations north of the line and south of the line, but that, as I have already stated, is merely a matter of bookkeeping in compliance with the law and does not alter the situation from an operating standpoint or from the standpoint of volume of traffic or tonnage handled (6174-6175).

The situation I have described does not have an effect upon the cost that I have included in arriving at our yard expense; it would not have any more effect upon the cost than the fact you handle a ton of freight through a dozen or more freight terminals. I do not include our accounting as part of our total cost in including yard expense. This is just station and yard expense. There would be no more reason for counting twice any tonnage that might

cross the imaginary line referred to than there would be for counting the tonnage each time it crossed the boundary of a freight train division. The lines of the carriers which I mentioned do not end at the Red river, but go on through into Texas; cars and trains go right on through like on any other division.

[fol. 1582] Take for example a shipment over the Frisco from St. Louis to Fort Worth, Texas. That shipment would be handled over seven freight train divisions; St. Louis to Newburg, Missouri; Newburg to Springfield; Springfield to Monett, Missouri; Monett to Sapulpa, Oklahoma; Sapulpa to Francis, Oklahoma; Francis to Sherman, Texas; and Sherman to Fort Worth. The tonnage of that shipment would be counted only once, and would be so reported in our report to the stockholders. Mr. Parsons would have us report that tonnage twice, once north of Red river and once south of Red river, simply because the line of the St. Louis-San Francisco Railway from Red river to Ft. Worth is known as the St. Louis, San Francisco & Texas Railway. The St. Louis, San Francisco & Texas Railway is nothing but an operating division of the St. Louis-San Francisco Railway Company and the fact that the Texas laws require that we give the line in Texas a separate corporate name does not change the operating conditions nor the manner in which tonnage is counted. Our annual report to the stockholders is made in the name of the St. Louis-San Francisco Railway Company and includes all financial and operating results of the System, regardless of the fact that the system is comprised of several lines having separate corporate names. The tonnage reported therein is on the basis of a single count.

The example given and what I have just said with respect to the Frisco, applies in the same way to the other carriers mentioned above (6175-6177).

The tonnage figures used in the calculations on page 33 of exhibit A-124 are on a system basis; they do not include any duplications; and the average costs per ton handled shown are absolutely correct. I disagree absolutely with the contention of Mr. Parsons that, for the purpose used [fol. 1583] on page 33 of exhibit A-124, the total tonnage handled by a given system should be ascertained on the

basis of aggregating the tonnage handled over each separate corporate line on the system. Cost figures on basis of total tonnage so ascertained would be incorrect.

Mr. Parsons in his testimony at Chicago on May 6th, page 5642 of the record, referred to my exhibit A-124 and took exception to the inclusion in Western Trunk Line territory of the D. S. S. & A. Ry., the Lake Superior & Ishpeming Ry., the Green Bay & Western Ry., and the E. J. & E. Ry.; also the inclusion in Southwestern territory of the Missouri & North Arkansas Railway, Midland Valley Railroad, Fort Smith & Western, Louisiana & Arkansas Ry., W. J. & N. W. Ry., J. W. & R. G. Ry., T. & B. V. Ry., and Wichita Valley Railway.

Those lines in the north are almost wholly within the Western Trunk Line Territory and those in the southwest are wholly within Southwestern Territory and for a fair representation of lines wholly, or substantially, within the two territories, I can see no good reason for their exclusion, although they were not specifically covered in the Commission's order At the time I prepared the exhibit I thought it proper to include those lines and there have been no developments since that would compel me to change my mind about the matter (6177-6178).

In this connection I am somewhat at a loss to understand why Mr. Parsons should want to criticize the inclusion of those lines in my exhibit A-124 when he himself included most of those lines in his exhibits A-39 and A-80. Mr. Parsons' exhibits A-39 and A-80, showing traffic density and earnings per ton mile by states and groups of states for the years 1922, 1923 and 1924, include the D. S. S. & A. Ry., the Lake Superior & Ishpeming Ry., and the Green Bay & Western Ry., the D. S. S. & A. Ry. and the Lake Su- [fol. 1584] perior & Ishpeming Ry. being included in the figures for the Upper Peninsula of Michigan and the Green Bay & Western Ry. in the figures for Wisconsin. In the same exhibits Mr. Parsons also included the M. & N. A. Ry., Midland Valley Ry., Fort Smith & Western Ry., Louisiana & Arkansas Ry., S. A. U. & G. Ry., Trinity & Brazos Valley Ry., and Wichita Valley Railway in Southwestern Territory. In view of these facts, why the criticism of the inclusion of these lines in my exhibit A-124?

If it is proper to include those roads in exhibiting certain information and facts, why is it not proper to include them in exhibiting other information and facts?

Exhibit A-124 is entirely consistent all the way through, the same roads having been included in each of the several statements contained therein.

Mr. Parsons included one of the lines in the southwest which I included, and he did not say the Fort Worth & Rio Grande Railway is part of the Frisco System, and it certainly should be included. That applies also with respect to the Wichita Falls & Northwestern, which is part of the system. So that the only line that I have included which he has not included is the E. J. & E. Railroad.

The hearing was then closed (Tr. 6178-6180).

[fol. 1585] Petitioners, through their counsel, also offered in evidence the orders which were made by the Interstate Commerce Commission in the said proceeding entitled Docket No. 15234 before the Interstate Commerce Commission, the said orders consisting of eight documents. The same were received in evidence and marked "Petitioners' Exhibit 2, E. F. M.", and are in words and figures as follows, to-wit:

PETITIONER'S EXHIBIT 2.

AT A GENERAL SESSION OF THE INTERSTATE COMMERCE COMMISSION, HELD AT ITS OFFICE, IN WASHINGTON, D. C., ON THE 8TH DAY OF OCTOBER, A. D. 1923

No. 15234

In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories

Order

The Commission having under consideration the matter of divisions of freight rates and charges in western and

mountain-Pacific territories as defined in Increased Rates, 1920; 58 I. C. C., 220, 58 I. C. C. 302, and 58 I. C. C. 489;

It is ordered, That a proceeding of inquiry and investigation be, and it is hereby, instituted for the purpose of determining whether the divisions of said rates or charges are and for the future will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between or among the respondent carriers hereinafter named, within the meaning of paragraph (6) of section 15 of the interstate commerce act, with a view to prescribing just, reasonable and equitable divisions of rates and charges to be received by the several carriers in the event that existing divisions are determined to be unjust, unreasonable, inequitable or unduly preferential or prejudicial;

[fol. 1586] It is further ordered, That The Atchison, Topeka and Santa Fe Railway Company; The Beaumont, Sour Lake & Western Railway Company; The Chicago and Alton Railroad Company, William W. Wheelock and William G. Bierd, Receivers; Chicago & North Western Railway Company; Chicago, Burlington & Quincy Railroad Company; Chicago Great Western Railroad Company; Chicago, Milwaukee and St. Paul Railway Company; The Chicago, Rock Island and Gulf Railway Company; The Chicago, Rock Island and Pacific Railway Company; Chicago, St. Paul, Minneapolis and Omaha Railway Company; The Colorado and Southern Railway Company; The Denver and Rio Grande Western Railroad Company, T. H. Beacom, Receiver; El Paso and Southwestern Company; Fort Worth and Denver City Railway Company; The Galveston, Harrisburg and San Antonio Railway Company; Great Northern Railway Company; Gulf, Colorado and Santa Fe Railway Company; Houston and Shreveport Railroad Company; Houston & Texas Central Railroad Company; The Houston East and West Texas Railway Company; Illinois Central Railroad Company; International-Great Northern Railroad Company; The Kansas City, Mexico & Orient Railroad Company, Wm. T. Kemper, Receiver; Kansas City, Mexico and Orient Railway Company of Texas; The Kansas City Southern Railway Company; Kansas, Oklahoma & Gulf Railway Company; Los Angeles and Salt Lake Railroad Company; The Minneapolis & St. Louis

Railroad Company, W. H. Bremner, Receiver; Minneapolis, St. Paul & Sault Ste. Marie Railway Company; Missouri-Kansas-Texas Railroad Company; Missouri-Kansas-Texas Railroad Company of Texas; Missouri Pacific Railroad Company; New Orleans, Texas & Mexico Railway Company; Northern Pacific Railway Company; Northwestern Pacific Railroad Company; Oregon Short Line Railroad Company; Oregon-Washington Railroad & Navigation Company; Panhandle and Santa Fe Railway Company; Quincy, Omaha & Kansas City Railroad Company; The St. Joseph and Grand Island Railway Company; The St. Louis, Brownsville and Mexico Railway Company; St. [fol. 1587] Louis-San Francisco Railway Company, St. Louis, San Francisco and Texas Railway Company; St. Louis Southwestern Railway Company of Texas; The San Antonio and Aransas Pass Railway Company; San Diego and Arizona Railway Company; Southern Pacific Company; Spokane International Railway Company; Spokane, Portland and Seattle Railway Company; The Texas and Pacific Railway Company, J. L. Lancaster and Charles L. Wallace, Receivers; Union Pacific Railroad Company and The Western Pacific Railroad Company be, and they are hereby, made respondents in this proceeding;

And it is further ordered, That this case be assigned for hearing at such times and places as the Commission may hereafter direct.

By the Commission:

George B. McGinty, Secretary. (Seal.)

INTERSTATE COMMERCE COMMISSION, WASHINGTON

No. 15234

In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories

Notice

October 24, 1923.

On October 8, 1923, the Commission entered upon an investigation into divisions of freight rates in western and mountain-Pacific territories.

For the present, and until further notice, the scope of this investigation will be limited to consideration of the

divisions east and west, respectively, of St. Paul, Minneapolis and Minnesota Transfer, Minn., and Missouri River Crossings, Kansas City, Mo., to Sioux City (Dubuque), Ia., inclusive, of the revenue received by respondents on traffic [fol. 1588] to and from Pacific coast terminals and points taking the same rates, from, to and through Chicago and Peoria, Ill., and points on the Mississippi River, St. Louis to St. Paul and Minneapolis, inclusive.

Appropriate notice will be given of the dates and places of hearings.

By the Commission:

George B. McGinty, Secretary.

INTERSTATE COMMERCE COMMISSION, WASHINGTON

No. 15234. No. 15234

Divisions of Freight Rates in Western and Mountain-Pacific Territories

June 17, 1925. CFS-ACW.

The above entitled proceeding is assigned for further hearing July 7, 1925, ten o'clock a.m., standard time, at the Great Northern Hotel, Chicago, Illinois, before Examiner Disque, at which time testimony will be received with reference to matter of divisions of joint rates between Western Trunk Line Territory and Trans-Missouri Territory, and between Western Trunk Line Territory and Southwestern Territory.

By the Commission:

George B. McGinty, Secretary.

[fol. 1589] INTERSTATE COMMERCE COMMISSION, WASHINGTON

No. 15234. No. 15234

Divisions of Freight Rates in Western and Mountain-Pacific Territories

July 6, 1925. CFS: FG.

Hearing in the above entitled proceeding now assigned for July 7, 1925, at Chicago, Illinois, before Examiner Disque, is cancelled.

By the Commission:

George B. McGinty, Secretary.

INTERSTATE COMMERCE COMMISSION, WASHINGTON, D. C.

No. 15234. No. 15234

Divisions of Freight Rates in Western and Mountain-Pacific Territories

August 26, 1925. CFS: WFG.

The above-entitled proceeding is assigned for hearing October 14, 1925, ten o'clock a. m. standard time, at the Great Northern Hotel, Chicago, Illinois, before Examiner Disque.

Evidence will be received only with respect to divisions between western trunk line territory and southwestern territory.

By the Commission:

George B. McGinty, Secretary.

[fol. 1590] INTERSTATE COMMERCE COMMISSION, WASHINGTON

No. 15234. No. 15234

Divisions of Freight Rates in Western and Mountain-Pacific Territories

September 8, 1925. CS-HR.

Referring to the previous notice setting this case for hearing at Chicago October 14, 1925.

The term "Western Trunk Line Territory" shall be understood to consist of the following states: Iowa, Minnesota, Wisconsin, Illinois, North Dakota, South Dakota, Missouri, on and north of the main line of Missouri Pacific Railroad between Kansas City and St. Louis, and the upper peninsula of Michigan.

The term "Southwestern Territory" shall be understood to consist of the following states: Texas, Arkansas, Oklahoma, Louisiana, west of the Mississippi River, and Missouri, south of the main line of the Missouri Pacific Railroad between Kansas City and St. Louis.

It should also be understood that among the divisions involved are those that apply in subdividing the revenue accruing to respondents out of joint rates on traffic moving through western trunk line territory between points in

southwestern territory and points in the territory east of the Illinois-Indiana state line, on and north of the Ohio River and on and north of the lines formed by the Chesapeake & Ohio, Norfolk & Western, and Virginian railways between Cincinnati, Ohio, and Norfolk, Virginia, including the New England states, New York, and the lower peninsula of Michigan.

By the Commission:

George B. McGinty, Secretary.

[fol. 1591] At a General Session of the Interstate Commerce Commission, Held at Its Office, in Washington, D. C., on the 23rd Day of September, A. D., 1925

No. 15234

In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories

Order

The Commission having under consideration the above-entitled proceeding, and good cause appearing therefor:

It is ordered, That the following carriers be, and they are hereby, made respondents in this proceeding:

St. Louis Southwestern Railway Company,

Louisiana Railway & Navigation Company,

Vicksburg, Shreveport & Pacific Railway Company,

Morgan's Louisiana and Texas Railroad and Steamship Company,

Louisiana Western Railroad Company,

Texas and New Orleans Railroad Company.

By the Commission:

George B. McGinty, Secretary. (Seal.)

At a General Session of the Interstate Commerce Commission, Held at Its Office, in Washington, D. C., on the 28th Day of November, A. D. 1925

No. 15234

In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories

Order

Upon further consideration of the record in the above-entitled proceeding and of petition of respondents to make

[fol. 1592] various oher carriers in the southwest territory respondents in this proceeding:

It is ordered, That the said petition be, and it is hereby, denied.

By the Commission:

George B. McGinty, Secretary. (Seal.)

Petitioners, through their counsel, also offered in evidence a petition which was filed before the Interstate Commerce Commission by respondents in the Southwestern territory in the said proceeding, asking that additional railroads in the Southwestern territory, which are specified in the said petition, should be made respondents (Tr. 10). The said petition, marked "Petitioners' Exhibit 3 E. M. F." for identification, was received in evidence and is in words and figures as follows, to-wit:

PETITIONER'S EXHIBIT 3

BEFORE THE INTERSTATE COMMERCE COMMISSION

I. C. C. Docket No. 15234

In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories

Petition of Respondents in Southwestern Territory for an Order Making Various Other Carriers in Southwestern Territory Respondents in This Proceeding

Now come Missouri-Kansas-Texas Railroad Company, Missouri-Kansas-Texas Railroad Company of Texas, Missouri Pacific Railroad Company, St. Louis-San Francisco [fol. 1593] Railway Company, St. Louis Southwestern Railway Company, St. Louis Southwestern Railway Company of Texas, Kansas City Southern Railway Company, Galveston, Harrisburg & San Antonio Railway Company, Houston & Shreveport Railroad Company, Houston East & West Texas Railroad Company, Morgan's Louisiana & Texas Railroad & Steamship Company, Texas & New Orleans Railroad Company, The Texas & Pacific Railway Company, respondents herein, on behalf of themselves and

such other respondents similarly situated as may desire to join herein, and respectfully request this Commission to issue an order making the carriers, herein referred to, respondents in this proceeding, and in support of this petition represent and show unto this Commission as follows:

On October 8, 1923, this Commission, having under consideration the matter of divisions of freight rates and charges in Western and Mountain-Pacific Territories, entered an order herein upon its own motion directing that an inquiry and investigation be instituted for the purpose of determining whether the divisions of said rates or charges were and for the future would be unjust, unreasonable, inequitable or unduly preferential or prejudicial as between or among the respondent carriers named in said order within the meaning of paragraph six of section 15 of the Interstate Commerce Act, with a view to prescribing just, reasonable and equitable divisions of rates and charges to be received by the several carriers in the event that the existing divisions were determined to be unjust, unreasonable, inequitable or unduly preferential or prejudicial. By this order various carriers were made respondents in this proceeding, including a number of the principal lines operating in Southwestern territory. Originally the hearings in this proceeding were confined to the divisions of rates between the transcontinental lines and the western trunk lines. On June 17, 1925, however, this Commission issued [fol. 1594] a notice assigning this proceeding for further hearing at Chicago, July 7, 1925, before Examiner Disque, at which time it was stated in said notice testimony would be received with reference to the matter of divisions of joint rates between western trunk line territory and southwestern territory. On July 6, 1925, this Commission issued a notice cancelling the hearing set for July 7, 1925, at Chicago. On August 26, 1925, notice was issued assigning this proceeding for hearing October 14, 1925, at Chicago, before Examiner Disque, when evidence would be received only with respect to divisions between western trunk line territory and southwestern territory. On September 23, 1925, this Commission issued an order naming certain additional southwestern carriers as respondents herein. At the hearing on October 14, 1925, the western trunk line carriers introduced a part of their testimony in chief but did not complete their evidence and the hearing was adjourned to No-

vember 16, 1925, at Chicago, to enable them to complete their case.

Respondents attach hereto, marked "Appendix A," a list of carriers in southwestern territory not now parties hereto which they request this Commission by an appropriate order to make respondents in this proceeding. Respondents state that said carriers unite with them in the publication of joint rates the divisions of which are involved herein, participate in the transportation of the traffic to which said joint rates apply and receive substantial divisions and earnings out of said joint rates. Many of the divisions in southwestern territory have been fixed by this Commission, such as those between the so-called tap lines and trunk lines, between the Missouri & North Arkansas Railway Company and its immediate connections and between the Kansas City, Mexico & Orient lines and their immediate connections, but the present proportions should not remain stationary if the primary divisions are read- [fol. 1595] justed. As the record now stands, however, no order can be made by this Commission affecting their revenues.

Respondents further state that since this is an investigation of divisions instituted by the Commission on its own motion it should not content itself with dealing with the main or primary divisions of the joint rates between the immediately connecting Western trunk lines and southwestern lines north and south of the gateways of Kansas City, St. Louis, Cairo, Thebes, etc., but should also deal with and prescribe the necessary readjustment of divisions which apply in subdividing the revenue accruing to all lines participating in the joint rates in southwestern territory.

Respondents further allege that if, as a result of this inquiry and investigation, the Western trunk lines are accorded increases in their divisions, and the carriers listed in Appendix A are not made respondents herein, these respondents will be compelled to absorb the entire increases out of their divisions. The result will be that these respondents will receive divisions of rates which are unjust, unreasonably low, inequitable and inadequate for the service performed by them. Moreover, if the divisions of these respondents are reduced and the shares of all other lines which participate in the joint rates and the transportation of the traffic in southwestern territory, including the lines

named in Appendix A hereto, are left unchanged, controversies will immediately arise as to a readjustment of the divisions between these respondents and said carriers, and this Commission will be called upon to determine and prescribe the divisions which shall be received by the various carriers within southwestern territory. Such controversies will result in a multiplicity of proceedings before this Commission. Hence, these respondents contend that in justice and fairness to them any readjustment of the pri- [fol. 1596] mary divisions as between the western trunk lines and southwestern lines should be accompanied by a simultaneous readjustment of the divisions between all lines participating in the joint rates and transportation of the traffic in southwestern territory, and that such readjustment should not be left to future proceedings before this Commission, but should be determined and prescribed herein. Respondents state that it is entirely practicable to fix the subdivisions of the rates in southwestern territory in this proceeding and that no delay will result from making the carriers listed in Appendix A parties to this case.

Wherefore respondents pray that an order issue making the carriers listed in Appendix A hereto respondents in this proceeding.

Missouri-Kansas-Texas Railroad Company, Missouri-Kansas-Texas Railroad Company of Texas, by C. S. Burg, Their Attorney. Missouri-Pacific Railroad Company, by H. H. Larimore, Its Attorney. St. Louis-San Francisco Railway Company, by M. G. Roberts, Its Attorney. St. Louis Southwestern Railway Company, St. Louis Southwestern Railway Company of Texas, by J. R. Turney, Their Attorney. Kansas City Southern Railway Company, by W. E. Davis, Its Attorney. Galves- [fol. 1597] ton, Harrisburg & San Antonio Railway Company, Houston & Shreveport Railroad Company, Houston East & West Texas Railroad Company, Morgan's Louisiana & Texas Railroad & Steamship Company, Texas & New Orleans Railroad Company, by Baker, Botts, Parker & Garwood, J. R. Bell, G. H. Muckley, Their Attorneys. The Texas & Pacific Railway Company, by T. D. Gresham, Its Attorney.

Appendix A

Abilene and Southern Railway Company,
Angelina & Neches River Railroad Company,
Arkansas Harbor Terminal Railway,
Arkansas Railroad,
Arkansas & Louisiana Missouri Railway Company,
Asherton and Gulf Railway Company,
Ashley, Drew & Northern Railway Company,
Asphalt Belt Railway Company,
Augusta Railroad Company,
Bartlett Western Railway,
Bauxite & Northern Railway Company,
Beaver Meade and Englewood Railroad Company,
Beirne & Clear Lake Railroad,
Blytheville, Leachville & Arkansas Southern Railroad Company,
Brimstone Railroad & Canal Company,
[fol. 1598] Brookings & Peach Orchard Railroad Company,
The Brownwood North and South Railway Company,
Cache Valley Railroad Company,
Cairo, Truman & Southern Railroad Company,
Cape Girardeau Northern Railway Company (Clarence L. Grant, Receiver),
Cairo Northern Railway Company (W. M. Ross, Receiver),
Central Railway Company of Arkansas,
Christie & Eastern Railway Company,
Cisco & Northeastern Railway Company,
The Clinton and Oklahoma Western Railroad Company,
Combs, Cass and Eastern Railroad Company,
Dardanelle & Russellville Railroad Company,
Dayton-Goose Creek Railway Company,
The Denison, Bonham & New Orleans Railroad Company,
DeQueen and Eastern Railroad Company,
Doniphan, Kensett & Searcy Railway,
Eastland, Wichita Falls & Gulf Railroad Company,
East Texas and Gulf Railway Company,
El Dorado and Wesson Railway Company,
Fordyce and Princeton R. R. Co.,
Fort Smith and Western Railway Company,
Fort Smith, Subiaco & Rock Island Railroad Company,
Fort Worth & Rio Grande Railway Company,
The Franklin and Abbeville Railway Company,

Fredericksburg & Northern Railway Company,
Galveston, Houston and Henderson Railroad Company,
Garyville Northern Railroad Company,
Graysonia, Nashville & Ashdown Railroad Company,
Groveton, Lufkin & Northern Railway Company,
[fol. 1599] Gulf & Northern Railway Company,
The Gulf & Sabine River Railroad Company,
Gulf, Texas & Western Railway Company (W. Frank Knox, Receiver),
Houston and Brazos Valley Railway Company,
Iberia and Vermillion Railroad Company,
Jefferson & Northwestern Railway Company,
Kansas, Oklahoma & Gulf Railway Company of Texas,
Kinder & Northwestern Railroad Company,
Leesville, Slagle & Eastern Railway Company,
Loranger, Louisiana & Northeastern Railroad Company (A. Loranger, Rec.),
Louisiana & Arkansas Railway Company,
The Louisana and North West Railroad Company,
Louisana and Pacific Railway Company,
Louisiana & Pine Bluff Railway Company,
Louisana Railway & Navigation Company of Texas,
Louisiana Southern Railway Company,
Lufkin, Hemphill and Gulf Railway Company,
Manilla and Southwestern Railway Company,
The Mansfield Railway & Transportation Company,
Marshall, Elysian Fields and Southeastern Railway Company,
Miami Mineral Belt Railroad Company,
Midland Valley Railroad Company,
Mississippi River and Bonne Terre Railway,
Missouri-Illinois Railroad Company,
Missouri and North Arkansas Railway Company,
Missouri Southern Railroad Company,
Monroe & Texas Railroad Company,
Montana Railroad,
Moscow, Camden & San Augustine Railroad,
Motley County Railway Company,
[fol. 1600] Murfreesboro-Nashville Southwestern Railway Company,
The Nacogdoches & Southeastern Railroad Company,
Natchez, Nrania & Ruston Railway Company,
Neame, Carson & Southern Railroad Company,

New Iberia & Northern Railroad Company,
Northeast Oklahoma Railroad Company,
North Louisana & Gulf Railroad Company,
Oakdale & Gulf Railway Company,
Oklahoma & Arkansas Railway Company (Title Guaranty and Trust Company, Receivers),
Oklahoma City-Ada-Atoka Railway Company,
Oklahoma, New Mexico & Pacific Railway Company,
Oklahoma Railway Company (George A. Henshaw and John W. Shartel, Receivers),
Oklahoma-Southwestern Railway Company,
Oklahoma Union Railway Company,
Okmulgee Northern Railway Company,
The Orange & Northwestern Railroad Company,
Osage Railway Company,
Ouachita and Northwestern Railroad Company,
Paris and Mt. Pleasant Railroad Company (R. W. Worthem, Receiver),
The Pecos Valley Southern Railway Company,
Pine Bluff and Northern Railway Company (J. K. Riffel, Receiver),
Pittsburg County Railway Company,
Port Bolivar Iron Ore Railway Company,
The Prescott and North Western Railroad Company,
Quanah, Acme & Pacific Railway Company,
Red River and Gulf Railroad,
Rio Grande and Eagle Pass Railway Company,
Roby & Northern Railroad Company,
[fol. 1601] Rockdale, Sandow & Southern R. R.,
Roscoe, Snyder and Pacific Railway Company,
Sabine & Neches Valley Railway Company,
St. Louis, El Reno and Western Railway Company (Lewis T. Tune, Receiver),
St. Louis, Kennett & Southeastern Railroad Company,
San Antonio Southern Railway Company,
San Antonio, Uvalde & Gulf Railroad Company (A. R. Ponder, Receiver),
San Benito and Rio Grande Valley Railway Company,
Sand Springs Railway Company,
Shreveport, Alexandria & Southwestern Railway System,
The Sibley, Lake Bisteneau & Southern Railway Company,
Shreveport, Houston & Gulf Railroad Company,
Sugarland Railway Company,

Texarkana and Fort Smith Railway Company,
Texas City Terminal Railway Company,
The Texas Mexican Railway Company,
Texas Midland Railroad,
Texas, Oklahoma & Eastern Railroad Company,
Texas Short Line Railway Company,
Texas South-Eastern Railroad Company,
Thornton and Alexandria Railway Company,
Tremont & Gulf Railway Company,
The Trinity and Brazos Valley Railway Company (John A. Hulen, Receiver),
Trinity Valley & Northern Railway Company,
Trinity Valley Southern Railroad Company,
Union Traction Company, The (Kansas)
Uvalde & Northern Railway Company,
[fol. 1602] Waco, Beaumont, Trinity & Sabine Railway Company,
Warren & Ouachita Valley Railway Company,
Warren & Saline River Railroad Company,
The Weatherford, Mineral Wells and Northwestern Railway Company,
Wichita Falls and Southern Railroad Company,
Wichita Falls, Ranger and Fort Worth Railroad Company (J. W. Mitchell, Receiver),
The Wichita Valley Railway Company,
Woodworth & Louisiana Central Railway Company, The.

Petitioners, through their counsel, also offered in evidence as Petitioners' Exhibit No. 4, the proposed report which was filed by Attorney-Examiner William A. Disque of the Interstate Commerce Commission, in this proceeding. Mr. Moore, attorney for petitioners, stated that in many proceedings before the Commission an examiner hears the evidence and writes out a proposed report, stating the decision which he recommends that the Commission should render, and that this is the proposed report that was prepared by the examiner in this case. Mr. Collins, Solicitor for the United States, objected to the report being received in evidence on the ground that it has nothing to do with anything in the proceeding, cannot be considered as evidence, cannot bind the Commission, is not an opinion of the Commission, and at most is only a summarization of testimony by the examiner from the records which the Court

has certified before it; moreover, that the conclusions of the examiner are not binding on the Commission, and that the proposed report has no place at all in the record.

[fol. 1603] Judge Reeves: Did the final opinion follow the proposed report as adopted?

Mr. Collins: No, your Honor.

Mr. Moore: It did not, your Honor. It is our position that this proposed report is one of the steps in the case, and, in our view, throws some light on the manner in which the case was handled and the positions that were taken by the various parties. Now the Commission in its report says that the Examiner in his proposed report made certain statements about the transportation conditions in the Western Trunk Line Territory as compared with the Southwestern Territory, and that no exceptions were filed to his report. Naturally, the decision of the Examiner having been in favor of the Southwestern Railroads, they had no occasion to take any exceptions to the report, and yet the Commission now treats this as an admission on our part. For that reason, as well as some others, we think that this throws a light on the attitude of the parties in the case.

There are other statements in the Commission's report as to the attitude of the parties, which are explained by this proposed report of the Examiner.

After this proposed report is filed, the parties file exceptions to it; that is, the losing party files exceptions. It is one of the steps in the progress of this kind of a case, and we certainly think that it is admissible.

Judge Gardner: It is referred to by the Commission in its report?

Mr. Moore: It is, your Honor.

Mr. Towner: I would like to concur in the objection made by Mr. Collins on behalf of the Government, and add this: that while the report of the Examiner at the time it was issued might be said to throw light on the position taken by the parties, that report is nevertheless disre-[fol. 1604] garded by the Commission in its order, which is attacked, and which totally reverses the recommendations of the Examiner in his conclusions as to what should be done. Unfortunately for him in this case, the Commission did not agree with him, and it seems to me that any conclu-

sion that he may have reached or any statement that he may have made, certainly should not be considered as binding on any party to this case in view of the complete reversal of the Examiner by the Commission in the order in this case.

Judge Gardner: The Commission does make reference to this report?

Mr. Towner: The Commission in its decision does make reference to this tentative report and does quote, I think, in two places from it, as Mr. Moore has stated.

Judge Gardner: The exhibit will be received, subject to the objection.

The said proposed report, marked for identification as Petitioners' Exhibit 4 E. F. M., was received in evidence, and is in words and figures as follows:

PETITIONERS' EXHIBIT 4

INTERSTATE COMMERCE COMMISSION

No. 15234

In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories

Submitted ——— —, ———. Decided ——— —, ———

Divisions in the aggregate north and south of Kansas City and St. Louis, Mo., and East St. Louis, Cairo, Gale, [fol. 1605] and Thebes, Ill., respectively, of joint rates on freight traffic in general between points in western trunk line territory, on the one hand, and points in the Southwest, on the other, not found unreasonable, inequitable or otherwise unlawful.

Silas H. Strawn, Ralph M. Shaw, R. N. Van Doren, H. T. Dick, J. N. Davis, M. M. Joyce, K. F. Burgess, L. H. Strasser, R. V. Fletcher, and Frank H. Towner for western trunk lines.

C. S. Burg, M. G. Roberts, H. H. Larimore, W. E. Davis, J. R. Turney, J. R. Bell, G. H. Muckley, T. D. Gresham,

Elmer Westlake, F. E. Andrews, and R. S. Outlaw for southwestern lines.

Report Proposed by Wm. A. Disque, Attorney-Examiner

This proceeding, instituted on our own motion, is an inquiry into the propriety of the divisions of the joint rates of the principal carriers in the territory covered by the western and mountain-Pacific groups as defined in Ex Parte 74, Increased Rates, 1920, 58 I. C. C. 220; 58 I. C. C. 302; and 58 I. C. C. 489.

In so far as it relates to the divisions in the aggregate east and west of St. Louis, Minneapolis and Minnesota Transfer, Minn., and the Missouri River crossings, Kansas City, Mo., to Sioux City, Iowa, inclusive, of joint rates between Chicago and Peoria, Ill., and St. Louis, Mo., and related points in western trunk line territory, on the one hand, and points in Pacific coast territory, on the other, the case was disposed of informally several years ago by the carriers after extended hearings, with the assistance of the examiner, and revised divisions become effective July 1, 1925. In connection with this settlement, revised divisions east and west of the Minneosta and Missouri River gateways mentioned of joint rates between Chicago, Peoria and St. Louis, and related points in western trunk line territory, on the one hand, and points in trans-Missouri terri- [fol. 1606] tory as far west as the eastern border of the Pacific coast territory, on the other, including points in Oklahoma on the Atchison, Topeka & Santa Fe; Chicago, Rock Island & Pacific; and Missouri Pacific via Kansas City, were agreed upon and made effective on the above date, without having been made the subject of a hearing. The readjustment of divisions under these settlements is yielding the lines east of the gateways about three million dollars per year.

This report deals only with the divisions in the aggregate north and south of Kansas City and St. Louis, Mo., and East St. Louis, Cairo, Gale, and Thebes, Ill., respectively, of joint rates between points in western trunk line territory

generally east of the Missouri River[1] and points in the Southwest.[2]

By the terms of our order divisions via Mississippi River crossings south of Cairo would be included, but no question is presented with respect thereto at this time. Divisions on traffic to and from points in western Louisiana within the switching limits of New Orleans, La., and those on traffic via Kansas City to and from points in Oklahoma on the Atchison, Topeka & Santa Fe; Chicago, Rock Island & Pacific; and Missouri Pacific, disposed of in the settlement of trans-Missouri divisions, are likewise excluded by the parties from present consideration. The divisions under consideration apply not only on traffic having origin and destination in the territories mentioned, but also in subdividing the western lines' proportions of the joint rates on [fol. 1607] traffic moving between points in the Southwest and points in territory east of the Illinois-Indiana State Line and on and north of the Ohio River and the line formed by the Chesapeake & Ohio, Norfolk & Western, and Virginian Railways between Cincinnati, Ohio, and Norfolk, Va., including the New England States, New York, and the lower peninsula of Michigan. Repeated efforts were made both before and after the hearings to dispose of this phase of the case informally, but they proved unavailing and the matter was submitted to us only as a last resort. It has been our policy in this case to leave the carriers free to dispose of their divisional controveries without our formal intervention wherever that was possible, and to not enter upon a consideration of questions of divisions except where it should develop that that was the only feasible method of settlement. This policy has been concurred in by the parties generally.

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[1] Embracing the States of Iowa, Minnesota, Wisconsin, Illinois, North Dakota, South Dakota, Missouri, on and north of the main line of Missouri Pacific between Kansas City and St. Louis, and the upper peninsula of Michigan.

[2] Embracing the States of Texas, Arkansas, Oklahoma, Louisiana, west of the Mississippi River, and Missouri, south of the main line of the Missouri Pacific between Kansas City and St. Louis.

The western trunk lines, actively seeking increases in their divisions, are the aggressors, and for convenience of statement they will be referred to as complainants. The Southwestern lines, though they say that increases in their divisions would be justified, are in the main seeking merely to hold what they have, and will be spoken of as defendants. Complainants [3] are principally the important lines in western trunk line territory that have little or no mileage in the [fol. 1608] Southwest and defendants [4] are principally the important lines in the Southwest that have little or no mileage in western trunk line territory. The Atchison, Topeka & Santa Fe, operating important lines in both territories, chooses to regard itself for the purposes of this proceeding as a southwestern line. The Chicago, Rock Island & Pacific, however, likewise having important lines in both territories, apparently remains neutral, although when the divisions to and from the Pacific coast territory were considered it aligned itself with the Western trunk lines.

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[3] Chicago & Alton; Chicago & North Western; Chicago, Burlington & Quincy; Chicago Great Western; Chicago, Milwaukee & St. Paul; Chicago, St. Paul, Minneapolis & Omaha; Illinois Central; Minneapolis & St. Louis; Minneapolis, St. Paul & Sault Ste. Marie; Missouri Pacific; Quincy, Omaha & Kansas City; Chicago & Eastern Illinois; and Wabash.

[4] Atchison, Topeka & Santa Fe; Beaumont, Sour Lake & Western; Chicago, Rock Island & Gulf; Chicago, Rock Island & Pacific; Fort Worth & Denver City; Galveston, Harrisburg & San Antonio; Gulf, Colorado & Santa Fe; Houston & Shreveport; Houston & Texas Central; Houston East & West Texas; International-Great Northern; Kansas City, Mexico & Orient; Kansas City, Mexico & Orient of Texas; Kansas City Southern; Kansas, Oklahoma & Gulf; Louisiana Railway & Navigation; Louisiana Railway & Navigation of Texas; Louisiana Western; Missouri-Kansas-Texas; Missouri-Kansas-Texas of Texas; Missouri Pacific; Morgan's Louisiana & Texas; New Orleans, Texas & Mexico; Pan Handle & Santa Fe; St. Louis, Brownsville & Mexico; St. Louis-San Francisco; St. Louis, San Francisco & Texas; San Antonio & Aransas Pass; Texas & Pacific; St. Louis Southwestern; St. Louis Southwestern of Texas; and Texas & New Orleans.

Complainants and defendants alike admit that there are instances wherein individual divisions are perhaps open to question. A revision of such divisions may be justifiable, but the parties are not particularly interested in that matter. They are here concerned with individual divisions only to the extent that a change therein might accomplish the revenue effects respectively desired. A more consistent, logical and so-called scientific adjustment would be objectionable to complainants if it did not yield them substantially increased returns, and to defendants, if it did not either preserve the status quo or yield them additional revenue. What complainants seek and defendants oppose is a finding that complainants are entitled to substantially increased revenues in the aggregate out of the traffic under [fol. 1609] consideration, to be accompanied by a fixation of divisions appropriate to that end.

The present divisions vary widely according to the kinds of traffic. There are so-called merchandise divisions, applying on traffic in general, and various special divisions for a number of important commodities, but principally lumber and oil. By oil, we mean petroleum and its products. Most of the divisions were established during the period from 1892 to 1896, inclusive, but those on oil from Oklahoma via Kansas City are the result of arbitration as late as 1916. The divisions generally apply from and to large groups of points. They are not on any exact or uniform basis. They represent largely the play of competitive forces. As a whole, they yield the southwestern lines considerably in excess of what they would receive under a mileage prorate. Complainants contend that the record justifies the establishment of a mileage prorate and, subject to certain exceptions hereinafter noted, they seek relief on that basis, which would probably yield them between two and two and one-half million dollars per year. They are willing that the southwestern lines deduct their usual differentials before dividing the rates on traffic to and from Texas differential territory; and as to traffic to and from points in Oklahoma and Southwestern Missouri on the Kansas City Southern, Missouri-Kansas-Texas and St. Louis-San Francisco, they are willing to accept in lieu of a mileage prorate an increase of 14 per cent, which would be in harmony with that granted them by the Atchison, Topeka

& Santa Fe; Chicago, Rock Island & Pacific; and Missouri Pacific in connection with the Trans-Missouri and transcontinental settlements of 1925. The 14 per cent increase would still yield the western trunk lines considerably less than they would get under a mileage prorate, but they are willing to forego that basis on this traffic in their desire not to interfere with the settlement made with the Oklahoma [fol. 1610] lines last named.

Complainants are willing to eliminate from the case the divisions on lumber. The rates on lumber from the Southwest to points in Iowa, Minnesota and other States were originally made on the Cairo, Gale or Thebes combinations, and via those gateways were divided as made. The combinations on St. Louis and East St. Louis have generally been higher, but joint rates were provided via those gateways equal to the combinations on the lower crossings named. In the division of these joint rates the lines south of St. Louis and East St. Louis for years received 18 cents per 100 pounds, or one cent less than the corresponding locals, but later, when the St. Louis Southwestern extended its line into St. Louis, it demanded its local of 19 cents. A dispute immediately arose and in Rates on Lumber and other Forest Products, 31 I. C. C. 673, we required the St. Louis Southwestern to accept 18 cents, the same as its competitors did. Subsequently, the carriers themselves adopted 18 cents as the division of the joint rate to points in Illinois and Wisconsin. Except for the general increases and reduction this basis still stands. To some extent, due to carrier competition, it has influenced the divisions via Kansas City. A mileage prorate on lumber would yield complainants some additional revenue, but the present basis is sufficiently close to the desired basis as to be reasonably satisfactory to them. The divisions on oil are apparently about as near a mileage prorate as are those on lumber, and as we understand it complainants are willing to eliminate them also. Complainants' case is directed mainly at the merchandise and general commodity divisions, which yield them far less than they would get under a mileage prorate. Defendants, however, are not willing that the divisions on lumber and oil be eliminated. They expect their proportions on these commodities to be increased if they suffer any reductions in the merchandise and general commodity divisions.

[fol. 1611] About two-thirds of the carload traffic to which the divisions apply is northbound, primarily oil, but largely lumber. These two commodities comprise more than half of all the carload traffic under consideration. Most of the oil moves from Oklahoma via Kansas City and most of the lumber from Louisiana via East St. Louis. The remainder of the carload traffic is mainly northbound mineral and agricultural products, and southbound mineral, agricultural and industrial products. About two-thirds of the carload traffic moves via Kansas City and most of the balance via East St. Louis, the proportion via Cairo, Gale and Thebes being rather light, comprising perhaps only 2.5 per cent of the total. The following table shows the amount of the carload tonnage[5], the average hauls per ton and the number of ton-miles via the several gateways for the month of June, 1924, except as otherwise noted:

		Average haul per ton (miles)		Ton-miles	
Via	Tons	North	South	North	South
Kansas City	172,450	465	425	80,119,760	73,255,806
East St. Louis	82,770	271	502	22,427,320	41,555,117
Cairo, Gale and Thebes	6,204	290	251	1,796,229	1,560,407
All gateways	261,424	405	443	104,343,309	116,361,330
All gateways	.....	x348	x466	.....	.....

There is no data of record for less-than-carload traffic.

To obtain some idea of the extent to which the present divisions yield the southwestern lines more than they would [fol. 1612] receive under a mileage prorate, most all the carload traffic to which these divisions were applicable during the months of June and October, 1924, as pictured in

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[5]Embraces all carload traffic between points in the Southwest and points on the Chicago & Alton; Chicago & Eastern Illinois; Chicago & North Western; Chicago Great Western; Chicago, Milwaukee & St. Paul; Chicago, St. Paul, Minneapolis & Omaha; Illinois Central; Minneapolis & St. Louis; and Wabash.

[x] Embraces all carload traffic between the Southwest and western trunk line territory in October, 1924.

the above table, was made the basis of certain tests. It was developed that for every mile of service south of the gateways, the southwestern lines received revenue for a little over 1.3 constructive miles of service. The following table shows the constructive mileage represented by the proportions accruing to the southwestern lines on the carload traffic moving in June, 1924:

	Revenue per ton		Revenue per ton-mile (mills)		Average haul (miles)		Equated mileage, S.W.L.	Constructive mileage for each mile of service, S.W.L.
	W.T.L.	S.W.L.	W.T.L.	S.W.L.	W.T.L.	S.W.L.		
Lumber	$2.56	$4.61	8.07	9.07	317	508	571	1.12
Oil	3.69	3.69	8.25	9.28	447	398	447	1.12
Livestock	4.06	9.18	8.59	16.17	472	568	1,069	1.88
Other carload freight	3.94	8.47	10.57	17.00	373	498	801	1.61
All carload freight	3.53	4.98	8.71	11.26	405	443	572	1.29

It will be noted that lumber and oil move on divisions much more nearly approaching a mileage prorate than does other traffic. As above stated, considerably more than half the traffic is in these two commodities. Appendix No. 1 goes more into detail, showing in the final column on each page the constructive mileage for traffic to and from each southwestern state for the month just mentioned. It may be observed that while in most instances the constructive mileage in the Southwest exceeds the actual mileage, there are instances where the reverse is true.

The indicated net result to the Southwestern lines is that their revenue from the traffic in question is somewhat over 12 per cent greater than it would be under a mileage prorate. The following table shows the situation in more detail, for the months of June and October, 1924, combined:

[fol. 1613]

	Ton-miles	Per cent	Revenue	Per cent	Per cent Southwestern Lines revenue is of that which would accrue under a mileage prorate
Lumber:					
W. T. L.....	37,013,286	37.55	$311,875.00	35.56	103.2
S. W. L.....	61,551,184	62.45	565,261.35	64.44	
Total	98,564,470	100	$877,136.35	100	
Oil:					
W. T. L.....	131,492,329	51.41	$1,968,231.09	48.50	106
S. W. L.....	124,281,257	48.59	1,134,480.63	51.50	
Total	255,773,586	100	$2,202,711.72	100	
Other carload traffic:					
W. T. L.....	88,701,573	42.64	$877,298.99	32.39	
S. W. L.....	119,341,253	57.36	1,830,931.99	67.61	117.9
Total	208,042,826	100	$2,708,230.88	100	
All carload traffic:					
W. T. L.....	257,207,188	45.74	2,257,405.98	39.00	
S. W. L.....	305,173,694	54.26	3,530,674.97	61.00	112.4
Total	562,380,882	100	$5,788,080.05	100.00	

The above table treats each territory as an entirety. The data segregated as to individual southwestern states shows

a much wider range of per cents by which the revenue of the southwestern lines exceeds that which would accrue under a mileage prorate. The following table is illustrative of the general situation:

Commodity	Direction of movement	Gateway	Per cent
Lumber	From Missouri.....	East St. Louis.....	140.3
"	" Arkansas.....	Kansas City.....	96.2
"	" Louisiana.....	Thebes	93.2
Oil	" Arkansas.....	"	79.9
"	" Oklahoma.....	Kansas City.....	110.6
"	" Texas.....	East St. Louis.....	105.1
"	" Oklahoma.....	"	99.8
Other than above.	To and from Missouri...	Kansas City.....	158.0
" " " .	" " " Louisiana..	"	102.2
" " " .	" " " Oklahoma..	East St. Louis.....	114.6
" " " .	" " "	" ..Kansas City.....	150.3
" " " .	" " "	Arkansas...East St. Louis.....	112.8
" " " .	" " "	Louisiana.. "	104.3
" " " .	" " "	Texas.....Thebes	98.8

The proportions accruing to the southwestern lines more nearly approach the amounts of the corresponding locals to and from the gateways than do those of the western trunk lines.

[fol. 1614] Since the "nineties," when most of the divisions were established, on what complainants assume must have been a reasonable basis, conditions have materially changed. During the last 30 years both western trunk line territory and the Southwest have enjoyed a substantial increase in population, but the increase in the Southwest has been somewhat greater than in western trunk line territory. Railroad mileage also has substantially increased in both territories, but the increase in the Southwest has been particularly pronounced. As an agricultural region the Southwest has had a growth that has far surpassed that of western trunk line territory. The development of the oil business in the Southwest is of outstanding importance and has no counterpart in western trunk line territory. Industrial growth, however, has been of less consequence in the Southwest than in western trunk line territory. These changed conditions have operated to change materially the relative positions of the two groups of carriers to the advantage of those serving the Southwest.

Much evidence was offered to show the extent to which the general level of rates in the Southwest exceeds that in

western trunk line territory. The class rates are much higher in the Southwest. They are particularly high compared with those in Illinois, in which state apparently about 70 per cent of the traffic under consideration moves for at least a considerable portion of the distance, and where traffic is denser and operating conditions more favorable than in western trunk line territory generally or the Southwest. In the following table are shown representative class rates in Illinois, established as a result of Illinois Classification, 56 I. C. C. 202, and increased under Intrastate Rates within Illinois, 60 I. C. C. 92, compared with those for similar distances recently prescribed for the Southwest in Consolidated Southwestern Cases, 123 I. C. C. 203, the rates in Illinois being shown in the lower line and those [fol. 1615] for the Southwest in the upper line opposite each distance figure:

Distance (miles)	Classes 1	2	3	4	5	A	B	C	D	E
50	58	49	41	32	22	26	19	16	13	10
	46	39	31	23	16	18.5	15	13	10.5	9
100	79	67	55	43	30	36	26	22	18	14
	54	46	36	27	19	21.5	17.5	15	12	11
150	97	82	68	53	37	44	32	27	22	17
	63.5	54	42.5	32	22	25.5	20.5	18	14.5	12.5
200	109	93	76	60	41	49	35	30	25	19
	72.5	61.5	48.5	36.5	25.5	29	23.5	20.5	16.5	14.5
250	123	105	86	68	47	55	40	34	28	22
	77.5	66	52	39	27	31	25	21.5	17.5	15.5
300	133	113	93	73	51	60	43	37	30	23
	82	69.5	55	41	28.5	33	26.5	23	18.5	16.5
350	147	125	103	81	56	66	48	40	33	26
	87	74	58.5	43.5	30.5	35	28.5	24.5	19.5	17.5
400	157	133	110	86	60	71	51	43	35	27
	91	77.5	61	45.5	32	36.5	29.5	25.5	20.5	18
450	167	142	117	92	63	75	55	46	38	29
	96.5	82	64.5	48.5	34	38.5	31.5	27	21.5	19.5
500	174	148	122	96	66	78	57	48	39	30
	100.5	85.5	67.5	50.5	35	40	32.5	28	22.5	20

The rates prescribed for the so-called Kansas-Missouri territory in the report last cited are about 7 per cent below those prescribed for the Southwest. The class rates applying in the balance of the western trunk line territory con-

siderably exceed those in Illinois, but are much lower than those prescribed for the Southwest. The class rates in western trunk line territory are not on a modern or consistent basis and are not altogether appropriate for comparisons. They are under review in Ex Parte 87 (Sub-No. 1), Class Rates within Western Trunk Line Territory.

The level of commodity rates is also much higher in the Southwest than in western trunk line territory. If the comparisons submitted are typical, the difference amounts to probably 40 or 50 per cent. The force of the compari- [fol. 1616] sons is reduced, however, by the fact that some of the rates used are paper rates. Many of them apparently move large volumes of traffic in one territory and little, if any, in the other territory. It is impossible to get any exact idea of the situation. The prescribed class rates are perhaps a more satisfactory guide than are the present commodity rates, for the reason that the latter reflect many special conditions that have not affected the class rates. Most of the southwestern commodity rates used in the comparison are embraced by the general revision required in Consolidated Southwestern Cases, supra, but the new rates, like the present rates, are to be much higher than those at present maintained in western trunk line territory.

About the only conclusion that can safely be drawn from these rate data is that the general rate level in the Southwest greatly exceeds that in western trunk line territory. The question as to what the difference is must remain unanswered.

The statistics hereinafter dealt with, relating to traffic density, operating expenses and financial conditions, were prepared by respondents according to several different theories or methods, and lead to different results. All of them are more or less subject to just criticism. Complainants use only the data of respondent carriers, although the divisions apply for the account of all or practically all carriers participating in the transportation. They thus eliminate from the western trunk line group the Duluth, South Shore & Atlantic; Elgin, Joilet & Eastern; Green Bay & Western; and Lake Superior & Ishpeming. The traffic of these four carriers is peculiar, embracing but little busi-

ness to and from the Southwest. Complainants' data likewise excludes from the southwestern groups the Fort Smith & Western; Louisiana & Arkansas; Midland Valley; Missouri & North Arkansas; Fort Worth & Rio Grande; San Antonio, Uvalde & Gulf; Trinity & Brazos Valley; and [fol. 1617] Wichita Valley, none of which are respondents. Defendants generally use data of all class I carriers in the western district that serve either or both of the two territories, and thus include the above-named carriers. Complainants also exclude from their statistics for western trunk line territory data of the Atchison, Topeka & Santa Fe; Chicago, Rock Island & Pacific; and Missouri Pacific, all respondents, and include them only in their showing for the Southwest, although these carriers have rather extensive operations in both territories. Defendants offer statistics with data of the Atchison, Topeka & Sante Fe and the Chicago, Rock Island & Pacific included in both groups and separately with them excluded from both groups. Some of complainants' statistics include in each group only what we may call the strictly western trunk line and strictly southwestern carriers; namely, those that have all or practically all their mileage in either one of the groups, excluding altogether the Atchison, Topeka & Santa Fe; Chicago & North Western; Chicago, Burlington & Quincy; Chicago, Milwaukee & St. Paul; Chicago, Rock Island & Pacific; Illinois Central; Missouri Pacific; and Wabash, all of which have extensive lines in one or both territories as well as elsewhere in the west, and all of which are large systems, handling great volumes of traffic. Exclusion of these lines leaves in the western trunk line group only the smaller and weaker lines; namely, the Chicago & Alton; Chicago & Eastern Illinois; Chicago Great Western; Chicago, St. Paul, Minneapolis & Omaha; Minneapolis & St. Louis; Minneapolis, St. Paul & Sault Ste. Marie; and Quincy, Omaha & Kansas City.

The following table shows the freight revenues per million ton-miles, derived from both rates and divisions of all traffic, for three years:

(Here follows table, side folio 1618)

[fol. 1618]

All Class I Carriers

	Including Santa Fe and Rock Island in both groups		Excluding Santa Fe and Rock Island from both groups		Excepting carriers not respondents and including Santa Fe, Rock Island and Missouri Pacific in Southwestern group only		Strictly Western Trunk lines	Strictly Southwestern lines
	Western Trunk lines	Southwestern lines	Western Trunk lines	Southwestern lines	Western Trunk lines	Southwestern lines		
1922	.....	.....	.....	.....	10,570	14,000	.....	.....
1923	$11,310	$13,660	$10,730	$13,650	10,230	13,210	.....	.....
1924	11,280	13,260	10,780	13,330	10,300	12,810	$10,350	$13,510
Average	11,295	13,460	10,755	13,490	10,370	13,340	10,350	13,510

In this connection the average hauls on all traffic should be considered. They are as follows, in miles:

All Class I Carriers

	Including Santa Fe and Rock Island in both groups		Excluding Santa Fe and Rock Island from both groups		Excepting carriers not respondents and including Santa Fe, Rock Island and Missouri Pacific in Southwestern group only		Strictly Western Trunk lines	Strictly Southwestern lines
	Western Trunk lines	Southwestern lines	Western Trunk lines	Southwestern lines	Western Trunk lines	Southwestern lines		
1922	...	...	...	...	235	210	...	...
1923	217	228	204	198	225	206	...	...
1924	221	232	204	201	225	208	191	167
Average	219	230	204	200	228	208	191	167

The strictly western trunk lines had in 1924 a slightly higher traffic density than did the strictly southwestern lines, the ton-miles of revenue freight per mile of road being 1,094,493 as compared with 934,583. The respondent western trunk lines, excluding the Atchison, Topeka & Santa Fe; Chicago, Rock Island & Pacific; and Missouri Pacific in 1925 had 1,335,704 ton miles per mile of road, while the respondent southwestern lines, including those above named, had 1,065,663, the former figure being about [fol. 1619] 25 per cent greater than the latter. These data, however, do not represent the traffic density in either territory, but the density for the carriers serving those territories, regardless of whether or not their lines extend into other territories where the traffic density is generally much lighter.

We are concerned with traffic density mainly to determine the conditions in the two territories and not merely the conditions on all the lines of the carriers serving the two territories. It therefore seems appropriate to examine the densities according to geographical boundaries, rather than according to individual carriers. The following table shows the traffic density for each of the two territories based on data for the years 1922, 1923, and 1924 of all class I carriers in the western district which serve the two territories:

Years	Ton-miles per miles of line
Western trunk line states:[1]	
1922	1,163,494
1923	1,331,339
1924	1,253,399
Total or average	1,249,411
Southwestern states:	
1922	704,544
1923	809,927
1924	892,086
Total or average	802,186

[1]The figures include those for the St. Louis-Kansas City line of the Chicago, Rock Island & Pacific, although geographically the line is located in the Southwest as described for the purposes of this proceeding.

As may be seen, traffic density was over 50 per cent greater in western trunk line territory than in the Southwest.

The above data gives equal weight to the traffic density in each state. As a matter of fact the densities vary widely. In this connection the following table is enlightening. It shows the density for the year 1924 in each state embraced in the two territories, based on data of all class I carriers serving those states:

[fol. 1620] Western trunk line states:

Illinois	2,540,883
Iowa	972,721
Michigan (upper peninsula)	703,893
Minnesota	1,171,066
Missouri (on and north of C. R. I. & P.)	1,443,788
North Dakota	649,424
South Dakota	391,390
Wisconsin	1,107,780

Southwestern states:

Arkansas	1,043,253
Louisiana (west of Mississippi River)	913,058
Missouri (south of C. R. I. & P.)	1,093,265
Oklahoma	877,045
Texas	812,081

Appendix No. 1 shows similar information by states for each of the respondent carriers.

If the data are weighted according to the proportion of the traffic under consideration that moves from, to or through each state the density is seen to be much more than 50 per cent greater in western trunk line territory than in the Southwest. The traffic to and from North Dakota and South Dakota is almost negligible and apparently there are but few joint rates subject to the divisions in question. Eliminating these states from consideration it appears that the traffic density is about 70 per cent greater in western trunk line territory than in the Southwest, and if Kansas is included in the Southwest, on the theory that some of the traffic that moves via Kansas City passes through southeastern Kansas, the difference is increased to about 75 per cent. Between two-thirds and three-fourths of the traffic

moves from, to and or through Illinois. Much of this goes via East St. Louis, Cairo, Gale, or Thebes, avoiding all western trunk line territory except Illinois. That which [fol. 1621] does not move via the gateways named moves via Kansas City and through Iowa and Missouri as well as through Illinois. During the years 1922, 1923, and 1924, the traffic density in Illinois was over three times as great, and that in Illinois, Iowa and northern Missouri combined, over twice as great, as that in the Southwest. The following table, which may be considered in connection with traffic in general moving between Fort Worth, Tex., on the one hand, and Chicago, Ill., Des Moines, Iowa, and Minneapolis, Minn., on the other, via Kansas City shows for the years 1923 and 1924, combined, the average densities weighted according to the distances traversed in each state on several representative systems and also shows the percentage by which the densities on the western trunk lines exceeded those on the southwestern lines:

[fol. 1622]

Between	And	East and north	West and south	Ton-miles per mile of road: North	Ton-miles per mile of road: South	Ratio of average density east of Kansas City to that west thereof
Chicago, Ill.....	Ft. Worth, Tex..	C. & A.....	Santa Fe System.....	2,119,055	954,600	222.0 per cent
Chicago, "	Ft. Worth, " ..	C. G. W.....	" " "	1,755,203	954,600	183.9 " "
Chicago, "	Ft. Worth, " ..	C., M. & St. P.....	" " "	1,841,482	954,600	192.9 " "
Chicago, "	Ft. Worth, " ..	C. & N. W.-C. G. W... (via Marshalltown)	" " "	1,620,553	954,600	169.8 " "
Total				7,336,293	3,818,400	
Average						192.1 " "
Des Moines, Iowa.	Ft. Worth, " ..	C. G. W.....	" " "	1,382,134	954,600	144.8 " "
Minneapolis, Minn.	Ft. Worth, " ..	C. G. W.....	" " "	1,190,170	954,600	124.7 " "

[fol. 1623] Similar data for traffic moving via East St. Louis from, to or through Illinois would be still more favorable to defendants for the reason that the hauls north of that gateway are almost wholly in Illinois.

There are no definite figures available but indications are that traffic density in the Southwest has increased in much greater proportion during the past 30 years than has that in western trunk line territory. The increase has been particularly marked in recent years. The total of average ton-miles per mile of line for all southwestern lines, respondent herein, including the Atchison, Topeka & Santa Fe and Chicago, Rock Island & Pacific, in 1922 was 827,269, while that in 1925 was 1,065,663, an increase of 238,394. The total or average for all western trunk line respondents, excluding the two carriers above mentioned, in 1922 was 1,243,622 and that in 1925 was 1,335,704, an increase of only 92,082. If the southwest continues its greater ratio of increase for a few more years the traffic densities may become substantially equal.

The physical characteristics of the two territories are quite similar. The terrain in both is generally flat or rolling. The most broken country is that in the Ozark regions of southern Missouri and northwestern Arkansas. The Southwest is the more subject to floods, washouts and other incidents of wet weather, but western trunk line territory suffers the handicaps of more severe winters. Upon the whole, there is no great difference in operating conditions, except as results from the greater traffic density in western trunk line territory.

The table below shows the freight operating expenses per million ton-miles for three years:

[fol. 1624]

	All class I carriers							
	Including Santa Fe and Rock Island in both groups		Excluding Santa Fe and Rock Island from both groups		Excepting carriers not respondents and including Santa Fe, Rock Island and Missouri Pacific in southwestern group only		Strictly Western trunk lines	Strictly Southwestern lines
	Western trunk lines	Southwestern lines	Western trunk lines	Southwestern lines	Western trunk lines	Southwestern lines		
1922					$8,519	$10,923		
1923	$8,700	$10,370	$8,310	$10,430	8,262	10,330		
1924	8,380	9,469	8,070	9,430	7,966	9,405	$8,396	$9,688
Average	8,540	9,915	8,190	9,930	8,259	10,219	8,396	9,688

These figures indicate that it costs from 15 to 20 per cent more per ton to haul freight in the Southwest than in western trunk line territory. We have previously seen that there were no great differences in the length of the average hauls.

From an expense standpoint the carriers are hauling cars rather than tons. The western trunk lines handled about 1.5 more tons per car than did the southwestern lines, a difference of about 6 per cent.

In considering the relative costs we should remember that the expenses of the western trunk lines in the Chicago and St. Louis districts are heavy and that they are incurred on a large proportion of the traffic moving from, to and through those district-; also that the average hauls of the western trunk lines are considerably shorter than those of the southwestern lines and perhaps justify greater earnings per ton mile than if the hauls were substantially equal in both territories. On the other hand we should not forget that the southwestern lines incur heavy expenses in the St. Louis district and that as a whole, as distinguished from respondents only, they are terminal carriers with respect to practically all the traffic and thus have the expenses incident to originating and delivering it, while the western trunk lines avoid this burden on a large proportion of the traffic.

[fol. 1625] Deducting the average freight operating expenses from the average freight revenues as above shown, we have the following net freight earnings per million ton-miles:

	All class I carriers							
	Including Santa Fe and Rock Island in both groups		Excluding Santa Fe and Rock Island from both groups		Excepting carriers not respondents and including Santa Fe, Rock Island and Missouri Pacific in southwestern group only			
	Western trunk lines	Southwestern lines	Western trunk lines	Southwestern lines	Western trunk lines	Southwestern lines	Strictly Western trunk lines	Strictly Southwestern lines
Average	$2,755	$3,545	$2,565	$3,560	$2,111	$3,121	$1,954	$3,822

The net railway operating incomes per mile of road for the 7 years from 1916 to 1925, inclusive, but exclusive of the period of Federal control, appear below:

Year	All class I carriers						Strictly Western trunk lines	Strictly Southwestern lines
	Including Santa Fe and Rock Island in both groups		Excluding Santa Fe and Rock Island from both groups		Excepting carriers not respondents and including Santa Fe, Rock Island and Missouri Pacific in southwestern group only			
	Western trunk lines	Southwestern lines	Western trunk lines	Southwestern lines	Western trunk lines	Southwestern lines		
1916	$3,466	$2,761	$3,329	$2,108	.....	.....	.....	.....
1917	3,055	2,994	2,869	2,705	.....	.....	.....	.....
1921	2,024	2,518	1,450	1,943	.....	.....	.....	.....
1922	2,385	2,241	2,180	1,881	$2,120	$2,330	.....	.....
1923	2,702	2,554	2,495	2,189	2,427	2,630	.....	.....
1924	2,634	2,970	2,419	2,825	2,404	3,064	$1,486	$3,199
1925 x	2,878	3,096	2,609	2,816	2,591	3,261	.....	.....
Average	2,734	2,721	2,478	2,352	2,386	2,841	1,486	3,199

x Estimated on basis of considering one-eleventh of the net railway operating income for the eleven months ended November 30, as representative of that for December.

[fol. 1626] The following table shows for the seven years above mentioned the operating ratios, those for all traffic appearing in the upper part and those for freight below.

Years	All class I carriers							
	Including Santa Fe and Rock Island in both groups		Excluding Santa Fe and Rock Island from both groups		Excepting carriers not respondents and including Santa Fe, Rock Island and Missouri Pacific in southwestern group only		Strictly Western trunk lines	Strictly Southwestern lines
	Western trunk lines	Southwestern lines	Western trunk lines	Southwestern lines	Western trunk lines	Southwestern lines		
1916	65 03	67 74	65 70	70 67				
1917	70 00	67 22	71 08	67 33				
1921	81 71	78 17	84 55	80 61				
1922	78 94	77 88	79 98	79 10	80 37	77 89		
1923	78 48	77 33	79 68	78 78	80 07	77 39		
1924	77 29	74 59	78 22	74 54	78 39	74 59	81 34	73 01
1925	75 73	73 59	76 99	74 38	77 08	73 28		
Average	76 15	74 46	77 46	75 68	79 23	75 79	81 34	73 01
1922					78 65	76 66		
1923	76 96	75 96	77 52	76 42	78 62	76 75		
1924	74 28	71 35	74 88	70 74	75 65	72 10	79 85	70 36
Average	75 66	73 60	76 25	73 47	77 64	75 17	79 85	70 36

The so-called book values per mile of line, averaged for the 7 years referred to, were as follows:

All class I carriers							
Including Santa Fe and Rock Island in both groups		Excluding Santa Fe and Rock Island from both groups		Excepting carriers not respondents and including Santa Fe, Rock Island and Missouri Pacific in southwestern group only			
Western trunk lines	Southwestern lines	Western trunk lines	Southwestern lines	Western trunk lines	Southwestern lines	Strictly Western trunk lines	Strictly Southwestern lines
$68,720	$68,214	$67,960	$59,502	$71,361x	$69,770x	$66,542#	$66,513#

x As of January 1, 1925, and exclusive of data for K. O. & G. of Texas and H. & S.
For 1924, only.

[fol. 1627] It may be noted in this connection that in Revenues in Western District, 113 I. C. C. 1, 17, we said:

It is evident that the book values of the southwestern region are on a much less conservative basis than are those of the central western and northwestern regions, and that book value can not furnish a fair basis on which to compute the relative rates of return in these three regions.

Doubt exists, however, whether these comments may fairly be used against defendant here.

The rates of return in per cents on the above values for the years mentioned were:

	All class I carriers							
	Including Santa Fe and Rock Island in both groups		Excluding Santa Fe and Rock Island from both groups		Excepting carriers not respondents and including Santa Fe, Rock Island and Missouri Pacific in southwestern group only		Strictly Western trunk lines	Strictly Southwestern lines
	Western trunk lines	Southwestern lines	Western trunk lines	Southwestern lines	Western trunk lines	Southwestern lines		
1916	5 74	4 82	5 57	4 03				
1917	4 94	5 19	4 68	4 92				
1921	2 96	3 98	2 14	3 25				
1922	3 42	3 51	3 16	3 12	3 20	3 60		
1923	3 73	3 87	3 47	3 53	3 58	4 01		
1924	3 55	4 36	3 31	4 44	3 41	4 54	2 23	4 81
1925	3 90	4 55	3 59	4 43	3 63	4 67		
Average	3 98	4 30	3 65	3 95	3 45	4 21	2 23	4 81

If we select the carriers that would be most benefitted and those that would be most injured by the readjustment sought, or in other words, those that perform most of the transportation, namely the principal Chicago-St. Louis and Chicago-Kansas City lines, on the one hand, and the prominent southwestern lines on the other, the disparity between the financial strength of the two groups, as judged by the rates of return, is rather substantial. The table below shows the situation.

[fol. 1628]

	Rate of return			
	1922	1923	1924	1925
Western Trunk Lines:				
Chicago & Alton	1.05	3.59	2.86	2.87
C. & E. I.	3.03	3.82	1.62	2.37
C., B. & Q.	4.52	4.29	4.80	4.60
C. G. W.	.19	1.54	1.59	1.48
C., M. & St. P.	1.90	2.81	2.57	2.27
Illinois Central	5.92	5.17	4.76	4.76
Wabash	1.77	3.84	3.85	4.84
Southwestern Lines:				
A., T. & S. F.	4.61	5.17	4.63	5.16
G. C. & S. F.	6.05	5.67	9.04	7.55
H. & T. C.	4.30	4.44	5.28	4.33
H. E. & W. T.	2.26	1.75	1.91	7.21
I. G. N.	2.87	4.98	5.63	4.52
K. C. M. & O.	Deficit	.22	Deficit	.24
K. C. M. & O. of Tex.	Deficit	Deficit	2.41	.47
K. C. S.	2.88	2.60	2.85	3.49
M. K. T.	4.72	3.78	4.29	4.96
M. K. T. of Tex.	1.63	1.56	5.03	3.28
Mo. Pac.	2.09	2.21	3.81	4.14
St. L. S. F.	3.99	4.72	5.05	5.23
St. L. S. W.	7.03	7.44	4.97	4.81
St. L. S. W. of Tex.	Deficit	Deficit	1.33	1.46
Texas & Pacific	2.72	3.84	4.15	4.11

Consideration of groups or averages, however, is often misleading. The revenue which a mileage prorate would transfer to the western trunk lines would go to the Chicago, Burlington & Quincy, Illinois Central and Wabash perhaps as much as it would to the weaker lines, namely the Chicago & Alton, Chicago & Eastern Illinois, Chicago Great Western and Chicago, Milwaukee & St. Paul. This situation argues against a change in divisions for financial reasons. Transfusion of revenue should be undertaken for strengthening weak carriers only in extreme cases and only as a last resort.

No such convincing showing has been made as would justify affirmative action on the part of this commission with respect to the divisions in the aggregate, but there is much reason to believe that a constructive revision of individual divisions by the carriers interested would be warranted.

[fol. 1629] APPENDIX No. 1

Constructive Mileage Represented by Division of Joint Revenue Accruing to Southwestern Lines on Traffic Moving in June, 1924

Via Kansas City

To or from	Revenue per ton		Revenue per ton-mile, in mills		Average haul, miles		Equated mileage,	Constructive mileage for each mile of service
	W.T.L.	S.W.L.	W.T.L.	S.W.L.	W.T.L.	S.W.L.	S.W.L.	
Missouri:								
Lumber	$2.85	$4.20	9.56	12.60	299	334	439	1.31
Other Carload Freight	5.16	5.03	13.56	31.01	381	162	371	2.29
Total	4.98	4.97	13.30	28.19	374	176	374	2.13
Arkansas:								
Lumber	3.13	4.42	7.90	7.24	397	611	559	.91
Other Carload Freight	5.51	9.24	13.27	22.83	415	405	696	1.72
Total	3.97	6.13	9.86	11.39	403	538	622	1.16
Louisiana:								
Lumber	2.92	4.57	7.74	6.02	378	759	590	.78
Other Carload Freight	4.57	7.91	8.86	10.42	516	759	893	1.18
Total	3.51	5.75	8.22	7.58	427	759	700	.92
Oklahoma:								
Oil (Group A)	4.35	3.10	8.79	10.68	496	290	353	1.22
Oil (Group B)	4.22	3.33	8.57	10.10	493	330	389	1.18
Other Carload Freight	4.16	7.65	9.41	23.19	443	330	813	2.46
Total	4.24	3.74	8.68	11.55	488	324	431	1.33

[fol. 1630]

North East Texas:								
Lumber	$2.92	4.94	11.15	9.24	262	535	443	.83
Oil	2.51	5.10	5.82	8.92	431	572	876	1.53
Live Stock	4.11	8.70	8.72	16.86	471	516	998	1.93
Other Carload Freight	5.04	12.53	10.67	22.42	472	559	1,174	2.10
Total	3.44	7.72	7.85	13.70	438	564	984	1.74
Remainder of Texas Common Points:								
Lumber	2.93	4.58	6.69	5.77	437	794	685	.86
Oil	2.81	5.52	5.80	7.32	485	754	952	1.26
Live Stock	3.98	10.47	8.25	14.93	483	702	1,269	1.81
Other Carload Freight	4.49	11.05	10.08	13.24	446	835	1,096	1.31
Total	3.74	8.32	8.23	10.35	454	804	1,011	1.26
Texas Common Points:								
Lumber	2.93	4.67	7.42	6.39	394	731	629	.86
Oil	2.58	5.20	5.81	8.44	445	617	895	1.45
Live Stock	4.08	9.18	8.59	16.21	475	566	1,069	1.89
Other Carload Freight	7.74	11.73	10.36	16.54	458	709	1,132	1.60
Total	3.57	7.98	8.02	11.96	445	667	995	1.49
Southwestern Territory:								
Lumber	2.95	4.58	7.66	6.45	386	711	598	.84
Oil	4.01	3.56	8.25	9.77	486	364	432	1.19
Live Stock	4.08	9.18	8.59	16.21	475	566	1,069	1.89
Other Carload Freight	4.60	9.32	10.30	18.10	447	515	905	1.76
Total	4.07	4.86	8.63	11.63	472	418	563	1.35

APPENDIX No. 1—Continued

To or from	Revenue per ton		Revenue per ton-mile, in mills		Average haul, miles		Equated mileage, S.W.L.	Constructive mileage for each mile of service
	W.T.L.	S.W.L.	W.T.L.	S.W.L.	W.T.L.	S.W.L.		
[fol. 1631]	Via East St. Louis							
Missouri:								
Lumber	$2.46	$2.98	8.32	15.06	296	198	358	1.81
Other Carload Freight:								
Eastern Missouri	1.98	3.06	9.61	18.22	206	168	318	1.89
Western Missouri	2.84	4.68	12.89	16.95	221	276	363	1.32
Total	2.43	3.43	9.59	16.35	254	210	358	1.70
Arkansas:								
Lumber	2.40	4.57	7.99	10.83	301	422	572	1.36
Oil	2.24	3.77	8.90	7.44	253	507	424	.84
Other Carload Freight	3.64	7.73	12.39	18.55	295	417	624	1.50
Total	2.49	4.67	8.73	10.43	286	448	535	1.19
Louisiana:								
Lumber	2.47	5.53	8.06	8.54	307	648	686	1.06
Oil	.98	4.20	13.41	6.97	74	604	313	.52
Other Carload Freight	3.09	7.73	10.80	11.14	287	695	716	1.03
Total	2.37	5.85	9.09	8.97	260	652	644	.99
Oklahoma:								
Oil (Group A)	2.18	4.61	8.72	9.20	251	502	529	1.05
Oil (Group B)	2.35	4.40	8.16	8.66	288	509	539	1.06
Other Carload Freight	1.84	5.50	8.26	12.14	224	453	666	1.47
Total	2.16	4.81	8.21	9.85	264	489	586	1.20

(fol. 1632)

North East Texas:								
Lumber	$3.48	$8.10	9.03	12.77	386	634	897	1.41
Oil	1.77	5.42	5.89	6.53	300	830	920	1.11
Other Carload Freight	4.40	15.85	14.84	20.97	296	756	1,068	1.41
Total	2.97	9.77	9.66	12.50	307	782	1,011	1.29
Remainder of Texas Common Points:								
Lumber	2.36	6.67	8.02	8.38	295	797	832	1.04
Oil	1.52	6.19	5.44	7.26	280	853	1,138	1.33
Live Stock	2.27	9.09	8.82	12.93	258	703	1,031	1.47
Other Carload Freight	3.69	13.86	12.78	14.79	289	937	1,085	1.16
Total	2.64	9.07	9.13	10.58	289	857	993	1.16
Texas Common Points:								
Lumber	2.47	6.81	8.15	8.73	304	780	836	1.07
Oil	1.65	5.78	5.69	6.88	291	841	1,016	1.21
Live Stock	2.27	9.09	8.82	12.93	258	703	1,031	1.47
Other Carload Freight	3.94	14.56	13.52	16.67	291	874	1,077	1.23
Total	2.75	9.29	9.31	11.16	295	833	998	1.20
Southwestern Territory:								
Lumber	2.44	4.77	8.07	10.05	302	475	591	1.24
Oil	2.07	4.33	8.23	7.69	252	563	526	.93
Live Stock	2.27	9.09	8.82	12.93	258	703	1,031	1.47
Other Carload Freight	2.86	7.41	11.23	14.79	255	501	660	1.32
Total	2.44	5.34	8.89	10.50	274	508	601	1.18

APPENDIX No. 1—Continued

[fol. 1633]

Via Cairo, Gale, or Thebes

To or from	Revenue per ton		Revenue per ton-mile, in mills		Average haul, miles		Equated mileage, S.W.L.	Constructive mileage for each mile of service
	W.T.L.	S.W.L.	W.T.L.	S.W.L.	W.T.L.	S.W.L.		
Missouri:								
Lumber	$2.18	$1.79	9.92	26.30	220	68	180	2.65
Other Carload Freight	2.77	2.21	11.38	71.66	244	31	194	6.26
Total	2.48	2.00	10.68	40.06	232	50	187	3.74
Arkansas:								
Lumber	2.72	3.52	9.99	13.31	273	265	352	1.33
Oil	2.27	4.78	32.52	12.28	70	390	147	.38
Other Carload Freight	5.20	6.99	11.45	29.65	454	236	610	2.58
Total	3.24	4.28	10.55	16.39	307	261	406	1.56
Louisiana:								
Lumber	2.96	4.65	9.14	8.64	325	539	509	.94
Oil	2.87	4.31	7.61	8.67	378	498	566	1.14
Other Carload Freight	7.29	10.35	16.71	19.09	437	543	619	1.14
Total	3.39	5.10	9.31	9.83	364	518	548	1.06
Oklahoma:								
Oil (Group B)	2.30	4.89	28.79	6.54	80	749	170	.23
Texas:								
Lumber	3.14	4.66	9.22	6.29	341	741	505	.68
Southwestern Territory:								
Lumber	2.61	3.18	9.80	12.26	266	259	324	1.25
Oil	2.79	4.39	8.38	8.64	333	509	524	1.03
Other Carload Freight	3.83	4.25	11.94	32.68	321	130	356	2.74
Total	2.98	3.63	10.29	14.42	290	252	353	1.40

(Here follows Appendix No. 2, side folio 1634)

APPENDIX No. 2

Ton-miles per Mile of Line by States, Year 1924

	Michigan, Upper Peninsula	Wisconsin	Minnesota	Illinois	Missouri	Iow
Western Trunk Lines:						
Atchison, Topeka & Santa Fe (System) (a)	.....	.....	.....	3,044,053	2,721,898	4,10
Chicago & Alton	.....	.....	.....	2,161,493	1,846,565	...
Chicago & Eastern Illinois	.....	.....	.....	2,559,381	.....	...
Chicago & Northwestern	774,338	1,022,850	539,320	2,351,002	.....	1,23
Chicago, Burlington & Quincy	.....	2,989,154	1,629,291	2,638,089	1,574,455	75
Chicago Great Western	.....	.....	675,556	2,691,498	1,478,831	1,29
Chicago, Milwaukee & St. Paul	1,024,358	1,042,436	1,089,024	2,304,422	2,092,790	1,05
Chicago, Rock Island & Pacific (b)	.....	.....	696,626	3,319,582	1,240,884	74
Chicago, St. Paul, Mpls. & Omaha	.....	1,184,730	1,024,395	.....	.....	84
Illinois Central	.....	128,830	466,501	3,213,441	.....	1,30
Minneapolis & St. Louis	.....	.....	928,818	1,702,128	.....	72
Minneapolis, St. Paul & Sault Ste. Marie	592,596	1,055,223	893,278	2,344,673	.....	...
Quincy, Omaha & Kansas City	.....	.....	.....	51,498	160,537	...
Wabash	.....	.....	.....	2,231,026	1,492,653	6
Southwestern Lines:						
Atchison, Topeka & Santa Fe (System) (a)	.....	.....	.....	3,044,053	2,721,898	4,10
Chicago, Rock Island & Pacific (b)	.....	.....	696,626	3,319,582	1,240,884	74
Fort Worth & Denver City	.....	.....	.....	.....	.....	...
Gulf Coast Lines (c)	.....	.....	.....	.....	.....	...
International & Great Northern	.....	.....	.....	.....	.....	...
Kansas City, Mexico & Orient (System) (d)	.....	.....	.....	.....	.....	...
Kansas City Southern	.....	.....	.....	.....	2,205,049	...
Kansas, Oklahoma & Gulf (e)	.....	.....	.....	.....	.....	...
Louisiana Ry. & Navigation Co	.....	.....	.....	.....	.....	...
Louisiana Ry. & Navigation Co. of Texas	.....	.....	.....	.....	.....	...
Missouri, Kansas & Texas (f)	.....	.....	.....	.....	1,283,943	...
Missouri Pacific	.....	.....	.....	3,487,938	1,227,160	...
St. Louis-San Francisco (System) (g)	.....	.....	.....	.....	965,255	...
St. Louis Southwestern	.....	.....	.....	1,387,873	928,653	...
St. Louis Southwestern of Texas	.....	.....	.....	.....	.....	...
San Antonio & Aransas Pass	.....	.....	.....	.....	.....	...
Southern Pacific-Texas Lines (h)	.....	.....	.....	.....	.....	...
Southern Pacific-Louisiana Lines (i)	.....	.....	.....	.....	.....	...
Texas and Fort Smith	.....	.....	.....	.....	.....	...
Texas & Pacific	.....	.....	.....	.....	.....	...
Vicksburg, Shreveport & Pacific	.....	.....	.....	.....	.....	...

(a) Includes A. T. & S. F., G. C. & S. F., Panhandle & S. Fe. (b) Includes C. R. I. & G. (c) Includes Beaumont, Sour Lake & W
K. O. & G. of Texas. (f) Includes M. K. & T. of Texas. (g) Includes St. L.-S. F. of Texas. (h) Includes G. H. & S. A., H. E. & W

APPENDIX No. 2

Ton-miles per Mile of Line by States, Year 1924

Minnesota	Illinois	Missouri	Iowa	Kansas	Oklahoma	Arkansas	Louisiana	Texas
.....	3,044,053	2,721,898	4,102,937	975,224	967,470	.....	420,258	1,082,456
.....	2,161,493	1,846,565	.....	.....	.....	.....	.....	.....
.....	2,559,381	.....	.....	.....	.....	.....	.....	.....
539,320	2,351,002	.....	1,237,637	.....	.....	.....	.....	.....
1,629,291	2,638,089	1,574,455	758,487	149,614	.....	.....	.....	.....
675,556	2,691,498	1,478,831	1,291,653	1,468,709	.....	.....	.....	.....
1,089,024	2,304,422	2,092,790	1,055,953	.....	.....	.....	.....	.....
696,626	3,319,582	1,240,884	744,176	1,468,118	745,313	849,270	584,688	756,232
1,024,395	.....	.....	841,062	.....	.....	.....	.....	.....
466,501	3,213,441	.....	1,302,447	.....	.....	.....	.....	.....
928,818	1,702,128	.....	721,756	.....	.....	.....	.....	.....
893,278	2,344,673	.....	.....	.....	.....	.....	.....	.....
.....	51,498	160,537	.....	.....	.....	.....	.....	.....
.....	2,231,026	1,492,653	652,316					
.....	3,044,053	2,721,898	4,102,937	975,224	967,470	.....	420,258	1,082,456
696,626	3,319,582	1,240,884	744,176	1,468,118	745,313	849,270	584,688	756,232
.....	.....	.....	.....	.....	.....	.....	.....	1,236,029
.....	.....	.....	.....	.....	.....	.....	1,289,512	815,160
.....	.....	.....	.....	.....	.....	.....	.....	622,651
.....	.....	.....	.....	773,219	770,381	.....	.....	292,642
.....	.....	2,205,049	.....	1,552,012	1,794,276	1,868,517	1,493,373	.....
.....	.....	.....	.....	164,400	448,525	.....	.....	482,542
.....	.....	.....	.....	.....	.....	.....	802,505	.....
.....	.....	.....	.....	.....	.....	.....	385,289	403,265
.....	.....	1,283,943	.....	1,159,043	918,113	.....	.....	810,900
.....	3,487,938	1,227,160	.....	831,993	2,533,985	1,347,337	1,013,517	.....
.....	.....	965,255	.....	1,178,595	856,480	642,227	.....	327,869
.....	1,387,873	928,653	.....	.....	.....	1,117,254	431,440	.....
.....	.....	.....	.....	.....	.....	.....	.....	440,439
.....	.....	.....	.....	.....	.....	.....	.....	380,447
.....	.....	.....	.....	.....	.....	.....	.....	1,043,706
.....	.....	.....	.....	.....	.....	.....	1,124,969	.....
.....	.....	.....	.....	.....	.....	.....	.....	1,754,088
.....	.....	.....	.....	.....	.....	139,287	596,141	1,007,189
.....	.....	.....	.....	.....	.....	.....	1,024,133	.....

R. I. & G. (c) Includes Beaumont, Sour Lake & West. St. L. B. & M., and N. O. T. & M. (d) Includes K. C. M. & O. of Texas. (e) Includes F. of Texas. (h) Includes G. H. & S. A., H. E. & W. T., H. & T. C., T. & N. O. (i) Includes M. L. & T. and La. West.

[fol. 1635] OFFERS IN EVIDENCE

The petitioners, through their counsel, offered in evidence the report of the Interstate Commerce Commission in the said proceeding, which was published December 10, 1928, and the same was received in evidence marked for identification as Petitioners' Exhibit 5, and is in words and figures as follows:

(The said exhibit is the same exhibit which is attached to the petitioners' amended petition, marked Appendix 3, and is therefore not reproduced here.)

The petitioners also, through their counsel, offered in evidence the petition for rehearing which was filed by petitioners in the said proceeding, and the same was received in evidence, marked Petitioners' Exhibit 6 E. F. M. and is sent up as an original exhibit, with leave to either party to refer thereto.

[fol. 1636] Petitioners, through their counsel, also offered in evidence (Tr. 17) the report on reconsideration dated June 10, 1929, together with the order establishing the basis of divisions herein, and the same was received in evidence marked as Petitioners' Exhibit 7 E. F. M., and is in words and figures as follows, to-wit:

(The said report on reconsideration and the said order are attached to the amended petition herein as Appendix 4, and the same are therefore not reproduced here.)

Petitioners, through their counsel, also offered in evidence an order made by the Interstate Commerce Commission on the 25th day of July, 1929, postponing, at the request of the Court, the effective date of the said order fixing the basis of divisions, from August 1, 1929, to October 1, 1929, and correcting an error in the previous order by omitting the Texarkana and Fort Smith Railway Company from the list of respondents in the proceeding. The said order was received in evidence marked Petitioners Exhibit 8 E. F. M., and is in words and figures as follows, to-wit:

PETITIONERS' EXHIBIT 8

AT A GENERAL SESSION OF THE INTERSTATE COMMERCE COMMISSION, HELD AT ITS OFFICE, IN WASHINGTON, D. C., ON THE 25TH DAY OF JULY, A. D. 1929

No. 15234

In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories

Order

Good cause appearing therefor:

It is ordered, That the second paragraph of the commission's order of June 10, 1929, in this proceeding be, and it is hereby, amended to read as follows:

It further appearing, That respondents herein which par- [fol. 1637] ticipate in joint rates the divisions of which are prescribed by this order are The Atchison, Topeka & Santa Fe Railway Company; The Beaumont, Sour Lake & Western Railway Company; The Chicago & Alton Railroad Compand and W. W. Wheelock and W. G. Bierd, Receivers; Chicago & Eastern Illinois Railway Company; Chicago & North Western Railway Company; Chicago, Burlington & Quincy Railroad Company; Chicago Great Western Railroad Company; Chicago, Milwaukee, St. Paul & Pacific Railroad Company; The Chicago, Rock Island & Gulf Railway Company; The Chicago, Rock Island & Pacific Railway Company; Chicago, St. Paul, Minneapolis & Omaha Railway Company; The Fort Worth & Denver City Railway Company; The Galveston, Harrisburg & San Antonio Railway Company; The Gulf, Colorado & Santa Fe Railway Company; Houston & Shreveport Railroad Company; Houston & Texas Central Railroad Company; The Houston East & West Texas Railway Company; Illinois Central Railroad Company; International Great Northern Railroad Company; The Kansas City, Mexico & Orient Railway Company; Kansas City, Mexico & Orient Railway Company of Texas; The Kansas City Southern Railway Company; Kansas, Oklahoma & Gulf Railway Company; Louisiana Railway & Navigation Company; Louisiana Western Railroad

Company; The Minneapolis & St. Louis Railroad Company and W. H. Bremner, Receiver; Minneapolis, St. Paul and Sault Ste. Marie Railway Company; Missouri-Kansas-Texas Railroad Company; Missouri-Kansas-Texas Railroad Company of Texas; Missouri Pacific Railroad Company; Morgan's Louisiana & Texas Railroad & Steamship Company; New Orleans, Texas & Mexico Railway Company; Panhandle & Santa Fe Railway Company; Quincy, Omaha & Kansas City Railroad Company; The St. Louis, Brownsville & Mexico Railway Company; St. Louis-San Francisco Railway Company; St. Louis, San Francisco & Texas Railway Company; San Antonio & Aransas Pass Railway Com-[fol. 1638] pany· St. Louis Southwestern Railway Company; St. Louis Southwestern Railway Company of Texas; Texas & New Orleans Railroad Company; The Texas & Pacific Railway Company; Vicksburg, Shreveport & Pacific Railway Company; and Wabash Railway Company:

It is further ordered, That the effective date of said order be, and it is hereby, postponed from August 1, 1929, to October 1, 1929.

And it is further ordered, That in all other respects said order shall continue in force until the further order of the commission.

By the commission.

George B. McGinty, Secretary. (Seal.)

Petitioners, through their counsel, also offered in evidence as Petitioners' Exhibit 9 E. F. M. the proposed report filed by the Examiners of the Commission in Docket No. 17000, being a proceeding entitled "Western Trunk-Line Class Rates", in which the Examiners of the Commission recommended the establishment of a certain level of class rates in the Western Trunk Line territory. Mr. Reidy, counsel for the Interstate Commerce Commission, objected to the said report being received in evidence, on the ground that it was of no evidentiary value; that it was simply the proposed report of an Examiner in a case which had not been acted upon and which had no connection whatever with the case which was being tried. Mr. Towner, counsel for the intervening defendants, made the same objections, and objected also upon the ground that the said

[fol. 1639] intervening defendants offered in evidence the rates which were proposed by the Western Trunk Lines, and that the introduction of the same was objected to by the Southwestern Lines and the objection sustained. He objected also on the ground that the evidence was incompetent, irrelevant and immaterial, having nothing to do with the issues in the case. Mr. Collins, Counsel for the United States, joined in that objection. The objection to the admission of the said Exhibit 9 in evidence was sustained by the court, to which ruling and action of the Court in excluding the said Exhibit 9 the petitioners at the time duly excepted and still except (Tr. 19-24).

Witness S. H. Boxe was produced and sworn on the part of the petitioners, and thereupon the following objection was made:

"Mr. Reidy: If your Honors please, may I ask Mr. Moore if the testimony he expects to introduce was introduced before the Interstate Commerce Commission?

"Mr. Moore: It was not Mr. Reidy, but I would like to explain just what this testimony is."

Mr. Reidy objected on the ground that the order of the Commission should be declared valid or invalid upon the testimony before the Commission and not upon any new testimony before the Court.

Mr. Moore stated that after the Commission published its original report and prescribed the new formula for the division of the revenues from joint rates involved in this proceeding, the Southwestern railroads made a test of the application of that formula to determine what the effect of it would be; that they applied the formula to the revenue for the month of September, 1928, and showed the results of that test in the petition for rehearing, and called the [fol. 1640] Commissioner's attention to the fact that the formula which it prescribed had never been introduced in evidence nor brought to their knowledge before the hearing closed, and that the first time they had any knowledge of the formula which the Commission proposed to put into effect was when its report was filed. He further stated that the Commission, in its original report, had taken revenues of the Class I carriers in the Western Trunk Line

territory and in the Southwestern territory for the years 1923 and 1924, determined the amount of their revenues, their expenses, including taxes, and the additional amount which those carriers in the two groups would need to yield a return of 5¾% upon their aggregate investments, and that the Commission then took that constructive revenue, as they called it, assigned a part of it to the freight business, divided that constructive freight revenue by the ton miles handled by these two groups of carriers during that month, and determined therefrom how much revenue per ton per mile the Western Trunk Line carriers that were in this proceeding and the Southwestern carriers that were in this proceeding would require to yield them a return of 5¾% on their aggregated investments, and from that they determined that the Southwestern carriers would require 20% approximately more revenue per ton per mile on each ton of freight handled than would the Western Trunk Lines; that the Southwestern Lines in their petition for rehearing showed that they had made a test of that formula, and instead of yielding them 20% more revenue for the same service than was received by the Western Trunk Lines the figures showed that they only received five and a fraction per cent more. He further stated that the Commission denied the petition for rehearing, but modified its formula to some extent, and that the petitioners wished to put in [fol. 1641] evidence a study of the modified formula applied to the same revenue, that is, the revenue for the month of September, 1928, for the purpose of showing that even though modified, the order does not yield to the Southwestern carriers the 20% more revenue to which the Commission found that they would be entitled, and to show by how much the said order falls short of that amount. He further stated that that was not evidence that could have been introduced before the Commission, and that the evidence is for the purpose of showing the effect of the Commission's order (Tr. 24-27). He further stated that this was evidence which the petitioners offered to the Commission and which it was contended that the Commission wrongfully refused to receive because the Commission had made no findings whatever that their formula would produce the amount of revenue which they found that the Southwestern carriers were entitled to, and because the petitioners had

never had any opportunity to put in evidence before the Commission, or to go into the question; that the Commission in its modified report did make some comments on the study which petitioners had showed in their petition for rehearing, but did not attempt in any way to answer petitioners' contention that after the Commission had found that petitioners were entitled to a certain amount of revenue as compared with the Western Trunk Lines out of their joint business, the formula did not give that amount of revenue to petitioners. He further stated that petitioners' study of the effect of the Commission's formula upon the revenues for the month of September, 1928, under the formula prescribed in the Commission's original report, was set forth in the petition for rehearing; that petitioners now wanted to show that even the modified order did not cure that defect; that petitioners contended that the evidence was admissible under the allegation that the order of the Commission deprived them of their property without [fol. 1642] due process of law, and that the same was confiscatory, and also upon the ground that petitioners had the right to show the effect of the Commission's order, since it was evidence that could not have been introduced before the Commission.

Mr. Collins, counsel for the United States, objected that the Court could not consider such testimony because any testimony of that character must be considered and passed upon before the Commission itself; that the divisions formula was nothing but a sort of explanation of the Commission's decision, being nothing more than a mechanism or convenient method of dividing the joint rates. Mr. Towner, counsel for the intervening railroad defendants, also made the same objections; also on the ground that the Commission did consider the said study, and that the said study was hypothetical, the divisions having not yet gone into effect.

Mr. Moore further stated that petitioners contended that order which deprived them of a much larger part of the rev the Commission, after finding that the Southwestern carriers were entitled to a certain part of the revenue, made an enue; that the evidence would show that the order is not supported by the findings of the Commission, and is therefore void; that if the Commission finds that petition are

entitled to 20% more revenue than the Western Trunk Lines and then takes more than that amount from petitioners, it is taking property without due process of law, and that petitioners having made that allegation, have a right to prove it (Tr. 27-36).

Petitioners, through their counsel, stated that they offered to prove by the witness that he had prepared under his supervision a statement showing the effect of applying, to the revenues for the month of September, 1928, the formula prescribed by the Commission in the said proceeding, and that the said statement showed that under the Commission's formula the Southwestern carriers would receive only 9% [fol. 1643] more revenue per ton per mile than the Western Trunk Line carriers instead of the 17 to 22½% which the Commission found was the proper difference; that the said testimony was not presented to the Interstate Commerce Commission because it was not available until after the modified order of the Commission was handed down, but that petitioners did offer, in their petition for rehearing, similar testimony based on the original formula and the revenue from the traffic for the same month; that the Commission refused to grant a rehearing for the purpose of allowing petitioners to put that and other evidence in. The Court ruled that the testimony would be received subject to objections.

Witness Bone thereupon testified that he had a printed statement showing the result of a study of the divisions as actually settled between the Western Trunk Line respondents and the Southwestern line respondents, of the revenue on traffic for the month of September, 1928, which is affected by the Commission's order; that he had shown in that statement the amount of revenue which is actually received by the Western Trunk Line respondents and the amounts which would have been received by the Southwestern line respondents if the Commission's formula for the making of divisions had been applied to that traffic; that the said statement was prepared under his personal supervision and is correct according to the best of his knowledge and belief; that he is Assistant Auditor of Freight Receipts of the Missouri Pacific Railroad, and that all the railroads [illegible] the Southwestern region that are interested in

the said proceeding furnished him the information upon which the study is based. The said study was received in evidence marked Petitioners' Exhibit 10 E. F. M.

(Here follows table, side folio 1644)

Statement covering movement of freight traffic between points on lines in Western Trunk Line territory and points on lines in Southwestern and the line formed by the C. &. O. R. R. and N. & W. R. R. including the New England States, New York, and the lower peninsula c

Statement shows proportions for Western Trunk Lines and Southwestern Lines "as settled" and proportions for Western Trunk Lines the Matter of Divisions of Freight Rates in Western and Mountain Pacific Territories, 148 I. C. C. 457; 156 I. C. C. 94; also tons one mile a

Figures on which this statement is based cover waybills settled in accounts, month of September, 1928.

Summary	Cars	Tons	Tons one mile			
			W. T. L.	S. W. L.	Total	W. T. L
Respondent roads (See Note 1):						
All traffic except Texas differential stations	18,545	451,696	141,565,655	207,890,160	349,455,815	1,586,6
Texas differential stations	547	10,771	3,515,411	10,373,876	13,889,287	45,9
Total respondent roads	19,092	462,467	145,081,066	218,264,036	363,345,102	1,632,5
Non-respondent roads (See Note 2):						
All traffic except Texas differential stations	8,527	236,376	75,615,995	105,298,723	180,914,718	744,9
Texas differential stations	82	2,373	707,069	2,420,372	3,127,441	7,6
Total non-respondent roads	8,609	238,749	76,323,064	107,719,095	184,042,159	752,5
Grand total	27,701	701,216	221,404,130	325,983,131	547,387,261	2,385,1

NOTE (1).—Includes only traffic specifically covered by the Commission's order of June 10, 1929, as amended July 25, 1929, viz., traffic of Kansas City, St. Louis, East St. Louis, Cairo, Gale and Thebes, and traffic originating at points on Western Trunk Line Respondents an respondents and points in territory east of the Illinois-Indiana state line as described in heading, when interchanged between Western Trunk

NOTE (2).—Includes other traffic interchanged between Western Trunk Lines and Southwestern Lines via the gateways named above, tory, or vice versa; and traffic originating on non-respondent roads in Western Trunk Line territory and destined to non-respondent roads in the Illinois-Indiana state line as described in heading, when moving in connection with Western Trunk Line roads.

I. C. C. Docket 15234

stern Trunk Lines and Southwestern Lines

stern Line territory, also traffic moving through Western Trunk lines to and from territory east of Illinois-Indiana State line, on and north of the Ohio River and sula of Michigan.

Lines and Southwestern Lines based on order of Interstate Commerce Commission dated June 10, 1929, as amended July 25, 1929, in I. C. C. Docket 15234, In mile and averages thereon, and proportions based on mileage.

Revenue as settled					Revenue under I. C. C. order				Revenue—Mileage Prorate		
Dollars			Per ton per mile (mills)		Dollars		Per ton per mile (mills)		Dollars		Per ton per mile (mills)
T. L.	S. W. L.	Total	W. T. L.	S. W. L.							
86,686	3,144,280	4,730,966	11.21	15.12	1,813,809	2,917,157	12.81	14.03	1,909,388	2,821,578	13.54
45,907	176,476	222,383	13.06	17.01	61,676	160,707	17.54	15.49	49,789	172,594	16.01
32,593	3,320,756	4,953,349	11.25	15.21	1,875,485	3,077,864	12.93	14.10	1,959,177	2,994,172	13.63
44,908	1,275,613	2,020,521	9.85	12.12	800,465	1,220,056	10.59	11.58	846,824	1,173,697	11.17
7,671	25,513	33,184	10.85	10.54	9,120	24,064	12.90	9.95	7,343	25,841	10.61
52,579	1,301,126	2,053,705	9.86	12.08	809,585	1,244,120	10.61	11.55	854,167	1,199,538	11.16
85,172	4,621,882	7,007,054	10.77	14.18	2,685,070	4,321,984	12.13	13.26	2,813,344	4,193,710	12.80

affic originating on the lines of the Southwestern Line respondents and destined to points on the Western Trunk Line respondents and moving via the Gateways and destined to points on Southwestern Line Respondents when interchanged through the same gateways, and also traffic between points on Southwestern Line runk Line respondents and Southwestern respondents via gateways named above.

ove, viz., traffic originating at points on non-respondent roads in Western Trunk Line territory and destined to points on respondent roads in Southwestern terri- s in Southwestern territory, or vice versa; and also traffic between points on non-respondent roads in Southwestern territory and points in the territory east of

[fol.1645] Cross-examination:

Witness Bone testified that the document, Exhibit No. 10, had never been offered to the Interstate Commerce Commission (Tr. 36-53).

Witness W. G. BUECHNER, being produced, sworn, and examined as a witness on the part of petitioners, testified that he is Auditor of Revenues of The Kansas City Southern Railway Company, and has had eighteen or twenty years experience as an accountant; that he had made some studies of the statement which was introduced in evidence as Petitioners' Exhibit No. 10, and had prepared a statement showing "Tons One Mile, Revenue based on I. C. C. order and Revenue based on constructive ton mile prorate, also, Amount Southwestern Lines Short of Receiving 20% more Revenue per ton mile than Western Trunk Lines, on Traffic Handled in September, 1928;" that the said statement shows that petitioners would receive only 9% more revenue per ton per mile than the Western Trunk Lines if the Commission's order were applied to traffic for September, 1928; that he made the computations and the same are correct.

Petitioners, through their counsel, offered the said statement in evidence as Petitioners' Exhibit 11 E. F. M. Mr. Reidy and Mr. Towner objected on the same grounds as were before stated. The said statement was received in evidence subject to the objections, to which ruling and action of the Court the defendants, by their counsel, at the time duly excepted and still except (Tr. 54-56).

Witness Buechner testified that he had prepared a statement showing comparisons of Western Trunk Lines' and Southwestern Lines' total proportions of revenue under a mileage prorate on the basis of existing divisions and as apportioned under the Interstate Commerce Commission's order, on traffic handled during the month of September, 1928, and that that statement shows that the Southwestern [fol. 1646] Lines would receive 7.39% more revenue per ton per mile than the Western Trunk Lines, instead of 20% more.

The said statement was offered in evidence as Petitioners' Exhibit No. 12 E. F. M. The same objections were made by Mr. Reidy and Mr. Towner, and the statement was received in evidence subject to the objections, to which ruling and action of the Court the defendants, by their counsel, at the time duly excepted, and still except (Tr. 56-57).

Witness Buechner further testified that he had prepared a statement entitled "Statement derived from Figures in the Interstate Commerce Commission's Report in the Matter of Divisions, 156 I. C. C. 94, 95, 96, Showing Amounts by which the Southwestern Lines would Fall Short of Receiving 20% More Revenue per ton-mile than the Western Trunk Lines"; that the Commission in its report on reconsideration had made some computations to determine how much would be received by the Western Trunk Line group and the Southwestern group, and the witness had taken those computations and ascertained how much the Southwestern carriers would have received from the revenue of those months, deducting from the total the amount which the Commission stated would be received by the Western Trunk Line group; that the said exhibit showed that by applying the Western Trunk Line percents as set out in the Commission's report on the Illinois-Wisconsin traffic in the June, 1924, test, the Southwestern Lines would fall short $6,005.00 of earning 20% more revenue per ton per mile than the Western Trunk Lines; that by applying the 87% basis of the June, 1924, test, it shows that the Southwestern Lines would fall short $51,491.63; and that by applying the same percents to the October test on the 80% basis, the Southwestern Lines would fall short $71,067.23, and applying the 87% test, the Southwestern Lines would fall short $160,725.24, and that those figures are all for one month. [fol. 1647] The said statement was offered in evidence as Petitioners' Exhibit No. 13 E. F. M. Counsel for defendants made the same objections. The statement was received, subject to the objections, to which ruling and action of the Court the defendants, by their counsel, at the time duly excepted and still except (Tr. 58-59).

Witness Buechner further testified that as Auditor of The Kansas City Southern Railway Company he had made a study of the amount of revenue which the Commission's

formula would take from The Kansas City Southern Railway Company and transfer to the various Western Trunk Line respondents; that the said statement was correct, and showed that the Kansas City Southern would lose, through the Commission's order, for the month of September, 1928, $17,611.42, and that that amount projected over a year would amount to a loss of $211,337.04. The said statement was offered in evidence as Petitioners' Exhibit 14 E. F. M. It was received, subject to the same objections, and is in words and figures as follows, to-wit:

[fol. 1648] PETITIONER'S EXHIBIT 14

Witness: —— ——

In Equity. No. 1363

The Kansas City Southern Railway Company (Including Texarkana and Fort Smith Railway Company)

Respondent

Statement Showing Estimated Annual Increases and Decreases Which Will Accrue to the Western Trunk Line Railroads, Resulting in Corresponding Decreases or Increases in the Revenues of Our Lines Based on Application of Divisional Bases Prescribed by the I. C. C. in Their Order June 10th, 1929, Docket 15234, Western Trunk Lines Division Case, to Traffic Originating or Terminating on Respondents' Roads, Moving During Sept., 1928, and Projected to Traffic Movement for Year 1928. (See Foot Note.)

Name of railroads	Western Trunk Lines revenue	
	Month	Year
Atchison, Topeka & Santa Fe Ry Co	$147.33	$1,767.96
Baltimore & Ohio R. R. Co	2.81	33.72
Chicago & Alton R. R. Co	3,193.32	38,319.84
Chicago, Burlington & Quincy R. R. Co	1,610.21	19,322.52
Chicago, Eastern Illinois Ry. Co..6	65.56	786.72
Chicago, Great Western R. R. Co	1,295.13	15,541.56
Chicago & Illinois Midland Ry. Co	11.94	143.28
Chicago, Milwaukee, St. Paul & Pacific R. R.	3,326.06	39,912.72
Chicago Northwestern Ry. Co	175.34	2,104.08
Chicago, Rock Island & Pacific Ry. Co	3,055.36	36,664.32
Chicago, St. Paul, Minneaapolis & Omaha Ry. Co.	D. 13.79	D. 165.48
Elgin, Joliet & Eastern Ry. Co	.10	1.20
Illinois Central R. R. Co	81.19	974.28
Illinois Terminal Co	5.37	64.44
Illinois Traction Co	D. .96	D. 11.52
Litchfield & Madison Ry. Co	D. 2.12	D. 25.44
Missouri-Kansas-Texas R. R. Co	.22	2.64
Minneapolis, Northfield & Southern Ry	5.49	65.88
Missouri Pacific R. R. Co	504.56	6,054.72
Minneapolis & St. Louis R. R. Co	145.07	1,740.84
Minneaopils, St. Paul & Sault Ste. Marie Ry	115.77	1,389.24
St. Louis-San Francisco Ry. Co	8.61	103.32
Union Pacific R. R. Co	1.71	20.52
Wabash Ry. Co	3,863.35	46,360.20
Weterloo, Cedar Falls & Northern Ry. Co	13.79	165.48
Total	17,611.42	$211,337.04

D—Denotes Decrease.

NOTE.—This statement includes only changes in K. C. S.-T. & F. S. revenues; it does not include additional increases and decreases which will accrue to the Western Trunk Line Railroads from other Southwestern roads which may have participated in any of this traffic.

[fol. 1649] Witness Buechner further testified that he had made a similar computation to show how much revenue The Kansas City Southern Railway Company would lose, if as a practical matter, the Commission's formula had to be applied to the revenue from traffic originating and terminating on the non-respondent lines of those two groups as well as on the respondents lines; that the said computation, based on the traffic for the month of September, 1928, showed that The Kansas City Southern Railway Company would lose $30,106.90 during that month, and that that loss projected over a period of a year would amount to $361,-

282.80. The statement was offered in evidence as Petitioners' Exhibit No. 15 E. F. M., and was received in evidence subject to the same objections interposed to previous similar exhibits (Tr. 61).

Cross-examination.

By Mr. Reidy:

None of these exhibits have been previously presented to the Interstate Commerce Commission for its consideration. They could not have been prepared before the Commission entered its modified order (Tr. 62-63).

Witness T. A. GRAY, being produced, sworn and examined as a witness on the part of petitioners, testified that he is Auditor of Revenue for the M. K. T. Railroad, and has been in accounting work twenty-five or thirty years; that he prepared a statement showing how much revenue the Missouri-Kansas-Texas Railway Company and the Missouri-Kansas-Texas Railway Company of Texas would lose as applied to revenues on the traffic for the month of September, 1928, if those revenues as between the Missouri-Kansas-Texas Railway Company and the Western Trunk Line [fol. 1650] respondents were divided in accordance with the settlements that were made between the carriers; that the statement is correct according to the best of his knowledge and belief; that the total which the Missouri-Kansas-Texas Railway Company and the Missouri-Kansas-Texas Railway Company of Texas would lose, based on the revenues from traffic for the month of September, 1928, under the Interstate Commerce Commission's decision, would be $38,799.14; that that was the amount which the Missouri-Kansas-Texas Lines would lose as a Southwestern Lines carrier; and that they handle a little traffic between Kansas City and St. Louis where the Missouri-Kansas-Texas is a Western Trunk Line carrier, and on that traffic it would show a loss of $89.92. The said statement was offered in evidence as Petitioners' Exhibit 16 E. F. F., and was received in evidence subject to the same objections as the other exhibits, to which ruling and action of the Court the defendants, by their counsel, at the time duly excepted and still except. Said exhibit 16 is in words and figures as follows (Tr. 63-65):

(Here follows Petitioners' Exhibit 16, side folios 1651, 1652, 1653, and 1654)

[fol. 1651]

PETITIONERS'

Missouri-Kansa

Estimated Effect on M.-K.-T. Lines September, 1928, Freight Revenue After Application of Divisions as Revised on Ju

	Automobiles-Passenger via		Other carloads, first class via		Lumber via		
	Kansas City	St. Louis	Kansas City	St. Louis	Kansas City	St. Louis	Kan
					Between Western Trunk Lines Territo		
As settled	$22,712.54	$5,303.78	$312.00	.....	$1,577.16	$1,036.30	$18
Rate Prorate	18,200.87	5,014.41	226.20	.....	1,589.25	1,017.59	19
Loss	4,511.67	289.37	85.80	.....	12.09D	18.71	
Roads Benefitting from M.-K.-T. Lines' loss:							
Atchison, Topeka & Santa Fe	.....	.....	.....	.....	.....	.....	
Baltimore & Ohio	.....	.....	.....	.....	.....	13.93	
Chicago & Alton	650.97	46.27	.....	.....	2.55 D	10.90 D	
Chi., Burlington & Quincy	1,189.04	.....	85.80	.....	42.22 D	12.11 D	
Chi. & Eastern Illinois	.....	20.62	.....	.....	.....	2.76 D	
Chicago Great Western	54.43	.....	.....	.....	11.04 D	.....	
Chi. & Ill. Midland	.....	6.21	.....	.....	.....	6.27	
Chi., Milwaukee & Gary	.....	.....	.....	.....	.....	.....	
Chi., Milwau., St. P. & Pac	371.52	.....	.....	.....	23.22 D	.61 D	
Chi. & Northwestern	36.97	190.79	.....	.....	.....	21.75	
Chi., R. I. & Pacific	.....	.....	.....	.....	.....	1.49 D	
Chi., St. P. Minnepls. & Omaha	.....	.....	.....	.....	.....	1.49 D	
Cleveland, Cinci., Chi. & St. L	.....	.....	.....	.....	.....	.....	
Clinton, Davenport & Muscatine	.....	2.55	.....	.....	.....	.....	
Des Moines & Central Iowa	.....	.....	.....	.....	.....	.....	
Elgin, Joliet & Eastern	.....	.....	.....	.....	.....	.....	
Escanaba & Lake Superior	.....	.....	.....	.....	.....	.....	
Ft. Dodge, Des Moines & Southern	.....	.....	.....	.....	.....	.....	
Great Northern	.....	.....	.....	.....	.....	.....	
Illinois Central	.....	.....	.....	.....	.....	.08 D	
Illinois Terminal	.....	.....	.....	.....	.....	.....	
Indiana Harbor Belt	.....	2.40	.....	.....	.....	.....	
Litchfield & Madison	.....	10.78	.....	.....	.....	1.24 D	
Mpls., Northfield & Southern	.....	.....	.....	.....	.....	.....	
Minneapolis & St. Louis	.....	.....	.....	.....	2.75 D	.....	
Mpls., St. Pl. & Sault Ste. Marie	.....	.....	.....	.....	2.55 D	.....	
Missouri Pacific	.....	.....	.....	.....	.....	.....	
New York Central	.....	.....	.....	.....	.....	.....	
N. Y., Chicago & St. Louis	.....	.....	.....	.....	.....	.....	
Northern Pacific	.....	.....	.....	.....	.....	.....	
Pennsylvania	.....	.....	.....	.....	.....	.....	
Toledo, St. L. & Western	.....	.....	.....	.....	.....	.32 D	

ONERS' EXHIBIT 16

-Kansas-Texas Lines

on June 10th, 1929, in I. C. C. Docket 15234; Also Showing Roads Which Would Benefit by M.-K.-T. Lines' Loss of Revenue

Petroleum and its products via		Other carloads via		Less carloads via		Total via		Grand Total
Kansas City	St. Louis	Kansas City	St. Louis	Kansas City	St. Louis	Kansas City	St. Louis	
Territory and Southwestern Lines Territory								
$185,010.90	$62,404.58	$137,541.30	$31,817.80	$38,100.59	$16,373.61	$385,254.49	$116,936.07	$502,190.56
190,930.38	62,259.41	116,653.60	28,716.79	31,805.72	14,520.53	359,406.02	111,528.73	470,934.75
5,919.48 D	145.17	20,887.70	3,101.01	6,294.87	1,853.08	25,848.47	5,407.34	31,255.81
611.78	.....	274.32	.....	532.59	2.40	1,418.69	2.40	1,421.09
.....	.....	.....	.....	.....	2.40 D	.....	11.53	11.53
866.33	1,170.50	6,644.35	253.38	927.94	245.93	9,107.04	1,705.18	10,812.22
99.38 D	9.14 D	1,848.40	211.09	995.29	82.89	3,976.93	272.73	4,249.66
6.74	151.13	1.07	711.20	3.72	785.24	11.53	1,665.43	1,676.96
2,666.18 D	.....	2,606.80	.....	432.03	9.33	416.04	9.33	425.37
5.94 D	1.51	.....	12.42	.....	.....	5.94 D	26.41	20.47
.....	.....	.....	.....	1.57	.....	1.57	.....	1.57
1,029.95 D	5.82 D	4,388.92	9.53 D	2,240.94	15.08	5,948.21	.88 D	5,947.33
995.29 D	654.53 D	1,040.33	809.90	217.75	193.02	299.76	560.93	860.69
671.04	.....	1,171.06	22.33	495.11	.34	2,337.21	22.67	2,359.88
688.24 D	.....	217.90	.....	33.46	.....	436.88 D	1.49 D	438.37 D
21.25	111.04 D	.....	.....	.....	1.34	.....	109.70 D	109.70 D
10.37 D	.....	2.41	.....	.....	.....	25.69	2.55	26.24
.....	21.91 D	.....	.....	.....	.....	10.37 D	.....	10.37 D
.....	.....	36.79	4.58	.04	.16	36.83	17.17 D	19.66
.....	.....	21.16 D	.....	.....	.....	21.16 D	.....	21.16 D
10.37	.....	.....	.....	.....	.....	10.37	.....	10.37
6.42 D	.....	21.16	.....	.51	.....	15.25	.....	15.25
77.18 D	125.26	11.41 D	453.51	3.51	253.16	85.08 D	831.85	746.77
.....	13.51 D	.....	.18 D	.....	4.68	.....	9.01 D	9.01 D
.....	.....	15.87	.....	.....	.....	15.87	2.40	18.27
.....	185.40 D	.....	158.27	.19	57.47	.19	39.88	40.07
96.68 D	.....	.....	.....	.....	.....	96.68 D	.....	96.68 D
329.90 D	.....	498.94	34.34	1.80	4.31	168.09	38.65	206.74
1,137.83 D	294.44 D	247.16	89.00	29.56	8.32	863.66 D	197.12 D	1,060.78 D
357.50 D	3.84 D	316.64	.....	56.19	.61	15.33	3.23 D	12.10
.....	.....	.....	.....	.....	.55	.....	.55	.55
.....	.....	.....	.....	.35	.....	.35	.....	.35
28.26 D	.....	.....	.....	1.18	.....	27.08 D	.....	27.08 D
.....	.....	.....	.....	.....	.34	.....	.34	.34
.....	.....	3.18	.....	.24	.....	3.42	.32 D	3.10
88.64 D	.....	44.45	.....	1.50		42.69 D		42.69 D

Estimated Effect on M.-K.-T. Lines September, 1923, Freight Revenue After Application of Divisions as Revised on Ju

	Automobiles-Passenger via		Other carloads, first class via		Lumber via		
	Kansas City	St. Louis	Kansas City	St. Louis	Kansas City	St. Louis	Kan
					Between Western Trunk Lines Territo		
As settled	$22,712.54	$5,303.78	$312.00	.....	$1,577.16	$1,036.30	$18
Rate Prorate	18,200.87	5,014.41	226.20	.....	1,589.25	1,017.59	19
Loss	4,511.67	289.37	85.80	.....	12.09D	18.71	
Roads Benefitting from M.-K.-T. Lines' loss:							
Atchison, Topeka & Santa Fe	.....	.....	.....	.....	.....	.....	
Baltimore & Ohio	.....	.....	.....	.....	.....	13.93	
Chicago & Alton	650.97	46.27	.....	.....	2.55 D	10.90 D	
Chi., Burlington & Quincy	1,189.04	.....	85.80	.....	42.22 D	12.11 D	
Chi. & Eastern Illinois	.....	20.62	.....	.....	.....	2.76 D	
Chicago Great Western	54.43	.....	.....	.....	11.04 D	.....	
Chi. & Ill. Midland	.....	6.21	.....	.....	.....	6.27	
Chi., Milwaukee & Gary	.....	.....	.....	.....	.....	.....	
Chi., Milwau., St. P. & Pac	371.52	.....	.....	.....	23.22 D	.61 D	
Chi. & Northwestern	36.97	190.79	.....	.....	.....	21.75	
Chi., R. I. & Pacific	.....	.....	.....	.....	.....	1.49 D	
Chi., St. P. Minnepls. & Omaha	.....	.....	.....	.....	.....	1.49 D	
Cleveland, Cinci., Chi. & St. L	.....	.....	.....	.....	.....	.....	
Clinton, Davenport & Muscatine	.....	2.55	.....	.....	.....	.....	
Des Moines & Central Iowa	.....	.....	.....	.....	.....	.....	
Elgin, Joliet & Eastern	.....	.....	.....	.....	.....	.....	
Escanaba & Lake Superior	.....	.....	.....	.....	.....	.....	
Ft. Dodge, Des Moines & Southern	.....	.....	.....	.....	.....	.....	
Great Northern	.....	.....	.....	.....	.....	.....	
Illinois Central	.....	.....	.....	.....	.....	.08 D	
Illinois Terminal	.....	.....	.....	.....	.....	.....	
Indiana Harbor Belt	.....	2.40	.....	.....	.....	.....	
Litchfield & Madison	.....	10.78	.....	.....	.....	1.24 D	
Mpls., Northfield & Southern	.....	.....	.....	.....	.....	.....	
Minneapolis & St. Louis	.....	.....	.....	.....	2.75 D	.....	
Mpls., St. Pl. & Sault Ste. Marie	.....	.....	.....	.....	2.55 D	.....	
Missouri Pacific	.....	.....	.....	.....	.....	.....	
New York Central	.....	.....	.....	.....	.....	.....	
N. Y., Chicago & St. Louis	.....	.....	.....	.....	.....	.....	
Northern Pacific	.....	.....	.....	.....	.....	.....	
Pennsylvania	.....	.....	.....	.....	.....	.....	
Toledo, St. L. & Western	.....	.....	.....	.....	.....	.32 D	
Union Pacific	.....	.....	.....	.....	.....	.....	
Wabash	2,208.74	9.75	.....	.....	72.24	6.27	
Waterloo, Cedar Falls & Nor	.....	.....	.....	.....	.....	.....	
Total	4,511.67	289.37	85.80	.....	12.09 D	18.71	

its products via Kansas City	its products via St. Louis	Other carloads via Kansas City	Other carloads via St. Louis	Less carloads via Kansas City	Less carloads via St. Louis	Total via Kansas City	Total via St. Louis	Grand Total
Territory and Southwestern Lines Territory								
$185,010.90	$62,404.58	$137,541.30	$31,817.80	$38,100.59	$16,373.61	$385,254.49	$116,936.07	$502,190.56
190,930.38	62,259.41	116,653.60	28,716.79	31,805.72	14,520.53	359,406.02	111,528.73	470,931.75
5,919.48 D	145.17	20,887.70	3,101.01	6,294.87	1,853.08	25,848.47	5,407.34	31,255.81
611.78	.....	274.32	.....	532.59	2.40	1,418.69	2.40	1,421.09
.....	.....	.....	.....	.....	2.40 D	.....	11.53	11.53
866.33	1,170.50	6,644.35	253.38	927.94	245.93	9,107.04	1,705.18	10,812.22
99.38 D	9.14 D	1,848.40	211.69	995.29	82.89	3,976.93	272.73	4,249.66
6.74	151.13	1.07	711.20	3.72	785.24	11.53	1,665.43	1,676.96
2,666.18 D	.....	2,606.80	.....	432.03	9.33	416.04	9.33	425.37
5.94 D	1.51	.....	12.42	.....	.....	5.94 D	26.41	20.47
.....	.....	.....	.....	1.57	.....	1.57	.....	1.57
1,029.95 D	5.82 D	4,388.92	9.53 D	2,240.94	15.08	5,948.21	.88 D	5,947.33
995.29 D	654.53 D	1,040.33	809.90	217.75	193.02	299.76	560.93	860.69
671.04	.....	1,171.06	22.33	495.11	.34	2,337.21	22.67	2,359.88
688.24 D	.....	217.90	.....	33.46	.....	436.88 D	1.49 D	438.37 D
21.25	111.04 D	.....	.....	.....	1.34	.....	109.70 D	109.70 D
10.37 D	.....	2.44	.....	.....	.....	23.69	2.55	26.24
.....	21.91 D	.....	.....	.....	.....	10.37 D	.....	10.37 D
.....	.....	36.79	4.58	.04	.16	36.83	17.17 D	19.66
.....	.....	21.16 D	.....	.....	.....	21.16 D	.....	21.16 D
10.37	.....	.....	.....	.....	.....	10.37	.....	10.37
6.42 D	.....	21.16	.....	.51	.....	15.25	.....	15.25
77.18 D	125.26	11.41 D	453.51	3.51	253.16	85.08 D	831.85	746.77
.....	13.51 D	.....	.18 D	.....	4.68	.....	9.01 D	9.01 D
.....	.....	15.87	.....	.....	.....	15.87	2.40	18.27
.....	185.40 D	.....	158.27	.19	57.47	.19	39.88	40.07
96.68 D	.....	.....	.....	.....	.....	96.68 D	.....	96.68 D
329.90 D	.....	498.94	34.34	1.80	4.31	168.09	38.65	206.74
1,137.83 D	294.44 D	247.16	89.00	29.56	8.32	863.66 D	197.12 D	1,060.78 D
357.50 D	3.84 D	316.64	.....	56.19	.61	15.33	3.23 D	12.10
.....	.....	.....	.....	.....	.55	.....	.55	.55
.....	.....	.....	.....	.35	.....	.35	.....	.35
28.26 D	.....	.....	.....	1.18	.....	27.08 D	.....	27.08 D
.....	.....	.....	.....	.....	.34	.....	.34	.34
.....	.....	3.18	.....	.24	.....	3.42	.32 D	3.10
88.64 D	.....	44.45	.....	1.50	.....	42.69 D	.....	42.69 D
474.51 D	3.60 D	1,507.62	350.70	319.40	190.31	3,633.49	553.43	4,186.92
14.72 D	.....	12.87	.....	.....	.....	1.85 D	.....	1.85 D
5,919.48 D	145.17	20,887.70	3,101.01	6,294.87	1,853.08	25,848.47	5,407.34	31,255.81

[fol. 1652]

Missouri-Kansas-Texas

Estimated Effect on M.-K.-T. Lines September, 1928, Freight Revenue After Application of Divisions as Revised on June 10th, 1

	Automobiles-Passenger via		Other carloads, first class via		Lumber via		Petr its
	Kansas City	St. Louis	Kansas City	St. Louis	Kansas City	St. Louis	Kansas City
					Between Central Freight Association Territory an		
As Settled	$37,160.00	$26,677.13	.....	.....	$474.05	$1,006.95	$12,289.83
Rate Prorate	33,246.35	22,353.60	.....	.....	405.24	983.17	12,297.76
Loss	3,913.65	4,323.53	.....	.....	68.81	23.78	7.93
Roads Benefitting from M.-K.-T. Lines' loss:							
Atchison, Topeka & Santa Fe	36.21	.....	.....	.....	.....	.....	177.40
Chicago & Alton	1,099.37	1,807.25	.....	.....	7.94	4.73	250.01
Chi., Burlington & Quincy	181.27	150.82	.....	.....	.....	.....	19.40
Chi. & Eastern Illinois	.....	989.13	.....	.....	.....	19.05	.....
Chi. & Great Western	11.59	.....	.....	.....	32.58	.....	41.81
Chi. & Illinois Midland	.....	30.88	.....	.....	.....	.....	.....
Chi., Milw., St. Paul & Pac	431.93	.....	.....	.....	28.29	.....	85.62
Chi. & Northwestern	1.61	.....	.....	.....	.....	.....	.....
Chi., Rock Island & Pac	206.54	46.40	.....	.....	.....	.....	60.88
Illinois Central	.....	655.63	.....	.....	.....	.....	.....
Illinois Terminal	.....	27.31	.....	.....	.....	.....	.....
Litchfield & Madison	.....	.....	.....	.....	.....	.....	.....
Minneapolis & St. Louis	.....	.....	.....	.....	.....	.....	.....
Missouri Pacific	9.74	.....	.....	.....	.....	.....	.....
Wabash	1,935.39	616.11	.....	.....	.....	.....	111.83
Total	3,913.65	4,323.53	.....	.....	68.81	23.78	7.93
					Between Western Trunk Lines Territory and S		
					(Points in North Dakota and South Dakota not in Sout		
As Settled	.....	.....	.....	.....	.....	.....	10,594.67
Rate Prorate	.....	.....	.....	.....	.....	.....	18,522.84
Loss	.....	.....	.....	.....	.....	.....	7,928.17
Roads Benefitting from M.-K.-T. Lines' loss:							
Chi., Burlington & Quincy	.....						
Chicago Great Western	.....	.....	.....	.....	.....	.....	422.11
Chi., Milw., St. Paul & Pac	.....	.....	.....	.....	.....	.....	3,117.89

ouri-Kansas-Texas Lines

sed on June 10th,1929, in I. C. C. Docket 15234; Also Showing Roads Which Would Benefit by M.-K.-T. Lines' Loss of Revenue

	Petroleum and its products via		Other carloads via		Less carloads via		Total via		Grand Total
	Kansas City	St. Louis	Kansas City	St. Louis	Kansas City	St. Louis	Kansas City	St. Louis	
iation Territory and Southwestern Lines Territory									
5	$12,289.83	$20,734.34	$31,187.26	$23,795.71	$9,218.95	$7,363.25	$90,330.09	$79,577.38	$169,907.47
7	12,297.76	21,351.87	28,276.25	20,933.41	8,280.93	6,296.50	82,506.53	71,918.55	154,425.08
8	7.93 D	617.53 D	2,911.01	2,862.30	938.02	1,066.75	7,823.56	7,658.83	15,482.39
—	177.40	.....	134.79	.....	20.86	.....	369.26	.....	369.26
3	250.01 D	184.93 D	1,232.29	731.84	236.39	484.41	2,325.98	2,843.30	5,169.28
	19.40	10.89 D	605.37	44.19 D	34.62	21.24	840.66	116.98	957.64
5	.....	420.44 D	.....	1,285.21	2.84	337.82	2.84	2,210.77	2,213.61
	41.81 D	.....	208.51	.....	32.55	.....	243.42	.....	243.42
	.....	.....	.....	.....	.....	.....	.....	30.88	30.88
	85.62 D	.....	152.91	.....	122.19	.....	649.70	.....	649.70
	.....	.....	.....	.....	.44	.....	2 05	.....	2.05
	60.88	.....	212.87	.....	28.21	1.93	508.50	48.33	556.83
	.....	1.27 D	.....	787.20	.....	163.70	.....	1,605.26	1,605.26
	.....	.....	.....	.....	.....	.....	.....	27.31	27.31
	.....	.....	.....	.....	7.49	.....	7.49	.....	7.49
	.....	.....	.....	.....	1.16	.....	1.16	.....	1.16
	.....	.....	.....	16.01 D	1.97	.....	11.71	16.01 D	4.30
	111.83	.....	364.27	118.25	449.30	57.65	2,860.79	792.01	3,652.80
8	7.93 D	617.53 D	2,911.01	2,862.30	938.02	1,066.75	7,823.56	7,658.83	15,482.39
es Territory and Southwestern Lines Territory									
Dakota not in Southwestern Lines Territorial Directory)									
	10,594.67	.....	476.88	.....	107.13	.....	11,178.68	.....	11,178.68
	18,522.84	.....	474.22	.....	120.68	.....	19,117.74	.....	19,117.74
	7,928.17 D	.....	2.66	.....	13.55 D	.....	7,939.06 D	.....	7,939.06 D
			2.33 D	.....	.69 D	.....	3.02 D	.....	3.02 D
	422.11 D	.....	.....	.....	.....	.....	422.11 D	.....	422.11D
	3,117.89 D	.....	10.42 D	.....	11.88 D	.....	3,140.19 D	.....	3,140.19 D
	800.18 D	.....	8.94	.....	.58 D	.....	791.82 D	.....	791.82 D

Chi., Burlington & Quincy							
Chicago Great Western							422.11 D
Chi., Milw., St. Paul & Pac							3,117.89 D
Chicago & Northwestern							800.18 D
Chi., Rock Island & Pac							297.34 D
Chi., St. P. Mpls. & Omaha							74.22 D
Mid-Continental							167.15 D
Minneapolis & St. Louis							
Mpls. St. P. & Sault Ste. M							2,726.79 D
Missouri Pacific							71.03 D
Northern Pacific							25.65 D
Union Pacific							225.81 D
Total							7,928.17 D

		2.33 D		.69 D		3.02 D		3.02 D
422.11 D						422.11 D		422.11D
3,117.89 D		10.42 D		11.88 D		3,140.19 D		3,140.19 D
800.18 D		8.94		.58 D		791.82 D		791.82 D
297.34 D						297.34 D		297.34 D
74.22 D						74.22 D		74.22 D
167.15 D						167.15 D		167.15 D
				.25 D		.25 D		.25 D
2,726.79 D						2,726.79 D		2,726.79 D
71.03 D		6.47		.15 D		64.71 D		64.71 D
25.65 D						25.65 D		25.65 D
225.81 D						225.81 D		225.81 D
7,928.17 D		2.66		13.55 D		7,939.06 D		7,939.06 D

Missouri-Kansas-Texas

Estimated Effect on M.-K.-T. Lines September, 1928, Freight Revenue After Application of Divisions as Revised on June 10th,1

	Automobiles-Passenger via		Other carloads, first class via		Lumber via		Petro its
	Kansas City	St. Louis	Kansas City	St. Louis	Kansas City	St. Louis	Kansas City
							Recapitulation
As Settled							
Between W. T. L. and S. W. L.	$22,712.54	$5,303.78	$312.00	.....	$1,577.16	$1,036.30	$185,010.90
Between C. F. A. and S. W. L.	37,160.00	26,677.13	.....	.....	474.05	1,006.95	12,289.83
Between W. T. L. and S. W. L. (N. Dak. and S. Dak.)	.....	.....	.....	.....	.....	.....	10,594.67
Total	59,872.54	31,980.91	312.00	.....	2,051.21	2,043.25	207,895.40
Rate Prorate							
Between W. T. L. and S. W. L.	18,200.87	5,014.41	226.20	.....	1,589.25	1,017.59	190,930.38
Between C. F. A. and S. W. L.	33,246.35	22,353.60	.....	.....	405.24	983.17	12,297.76
Between W. T. L. and S. W. L. (N. Dak. and S. Dak.)	.....	.....	.....	.....	.....	.....	18,522.84
Total	51,447.22	27,368.01	226.20	.....	1,994.49	2,000.76	221,750.98
Loss	8,425.32	4,612.90	85.80	.....	56.72	42.49	13,855.58
Roads Benefitting from M.-K.-T. Lines' loss:							
Atchison, Topake & Santa Fe	36.21	.....	.....	.....	.....	.....	789.18
Baltimore & Ohio	.....	.....	.....	.....	.....	13.93	.....
Chicago & Alton	1,750.34	1,853.52	.....	.....	5.39	6.17 D	616.32
Chi., Burlington & Quincy	1,370.31	150.82	85.80	.....	42.22 D	12.11 D	79.98
Chi. & Eastern Ill.	.....	1,009.75	.....	.....	.....	16.29	6.74
Chicago Great Western	66.02	.....	.....	.....	21.54	.....	3,130.16
Chicago & Iil. Midland	.....	37.09	.....	.....	.....	6.27	5.94
Chi., Milwau. & Gary	.....	.....	.....	.....	.....	.....	.....
Chi., Milwau., St. P. & Pac.	803.45	.....	.....	.....	5.07	.61 D	4,233.46
Chi. & Northwestern	38.58	190.79	.....	.....	.....	21.75	1,795.47
Chi., R. I., & Pacific	206.54	46.40	.....	.....	.....	.....	434.58
Chi., St. P., Mpls. & Omaha	.....	.....	.....	.....	.....	1.49 D	762.46
Cleveland, Cin., Chi., & St. L.	.....	.....	.....	.....	.....	.....	.....
Clinton, Davenport, & Muscatine	.....	2.55	.....	.....	.....	.....	21.25
Des Moines & Central Iowa	.....	.....	.....	.....	.....	.....	10.31
Elgin, Joliet & Eastern	.....	.....	.....	.....	.....	.....	.....
Escanaba & Lake Superior	.....	.....	.....	.....	.....	.....	.....
Ft. Dodge, Des Moines & Sou	.....	.....	.....	.....	.....	.....	10.31
Great Northern	.....	.....	.....	.....	.....	.....	6.45

uri-Kansas-Texas Lines

ed on June 10th,1929, in I. C. C. Docket 15234; Also Showing Roads Which Would Benefit by M.-K.-T. Lines' Loss of Revenue

	Petroleum and its products via		Other carloads via		Less carloads via		Total via		Grand Total
	Kansas City	St. Louis	Kansas City	St. Louis	Kansas City	St. Louis	Kansas City	St. Louis	
Recapitulation									
	$185,010.90	$62,404.58	$137,541.30	$31,817.80	$38,100.59	$16,373.61	$385,254.49	$116,936.07	$502,190.56
	12,289.83	20,734.34	31,187.26	23,795.71	9,218.95	7,363.25	90,330.09	79,577.38	169,907.47
	10,594.67	.....	476.88	.....	107.13	.....	11,178.68	.....	11,178.68
	207,895.40	83,138.92	169,205.44	55,613.51	47,426.67	23,736.86	486,763.26	196,513.45	683,276.71
	190,930.38	62,259.41	116,653.60	28,716.79	31,805.72	14,520.53	359,406.02	111,528.73	470,934.75
	12,297.76	21,351.87	28,276.25	20,933.41	8,280.93	6,296.50	82,506.53	71,918.55	154,425.08
	18,522.84	.....	474.22	.....	120.68	.....	19,117.74	.....	19,117.74
	221,750.98	83,611.28	145,404.07	49,650.20	40,207.33	20,817.03	461,030.29	183,447.28	644,477.57
	13,855.58 D	472.36 D	23,801.37	5,963.31	7,219.34	2,919.83	25,732.97	13,066.17	38,799.14
	789.18	.....	409.11	.....	553.45	2.40	1,787.95	2.40	1,790.35
	.....	.....	.....	.....	.....	2.40 D	.....	11.53	11.53
D	616.32	985.57	7,896.64	985.22	1,164.33	730.34	11,433.02	4,548.48	15,981.50
D	79.98 D	20.03 D	2,451.44	166.90	1,029.22	104.13	4,814.57	389.71	5,204.28
	6.74	269.31 D	1.07	1,996.41	6.56	1,123.06	14.37	3,876.20	3,890.57
	3,130.10 D	.....	2,815.31	.....	464.58	9.33	237.35	9.33	246.68
	5.94 D	1.51	.....	12.42	.....	.....	5.94 D	57.29	51.35
	.....	.....	.....	.....	1.57	.....	1.57	.....	1.57
D	4,233.46 D	5.82 D	4,531.41	9.53 D	2,351.25	15.08	3,457.72	.88 D	3,456.84
	1,795.47 D	654.53 D	1,049.27	809.90	217.61	193.02	490.01 D	560.93	70.92
	434.58	.....	1,383.93	22.33	523.32	2.27	2,548.37	71.00	2,619.37
D	762.46 D	.....	217.90	.....	33.46	.....	511.10 D	1.49 D	512.59 D
	.....	111.04 D	.....	.....	.....	1.34	.....	109.70 D	109.70 D
	21.25	.....	2.44	.....	.....	.....	23.69	2.55	26.24
	10.37 D	.....	.....	.....	.....	.....	10.37 D	.....	10.37 D
	.....	21.91 D	36.79	4.58	.04	.16	36.83	17.17 D	19.66
	.....	.....	21.16 D	.....	.....	.....	21.16 D	.....	21.16 D
	10.37	.....	.....	.....	.....	.....	10.37	.....	10.37
	6.42 D	.....	21.16	.....	.51	.....	15.25	.....	15.25
[illegible]	77.18 D	[illegible]	11.41 D	1,240.71	[illegible]	[illegible]	85.08 D	2,437.11	2,352.03

Ft. Dodge, Des Moines & Sou	.....	.....	.....	.....	.....	.....	10.37
Great Northern	.....	.....	.....	.....	.....	.....	6.42 D
Illinois Central	.....	65 .3	.....	.....	.....	.08 D	77.18 D
Illinois Terminal	.....	27.31	.....	.....	.....	.....	.....
Indiana Harbor Belt	.....	2.40	.....	.....	.....	.....	.....
Litchfield & Madison	.....	10.78	.....	.....	.....	1.24 D	.....
Midland Continental	.....	.....	.....	.....	.....	.....	167.15 D
Mpls., Northfield & Southern	.....	.....	.....	.....	.....	.....	96.68 D
Minneapolis & St. Louis	.....	.....	.....	.....	2.75 D	.....	329.90 D
Mpls., St. P. & Sault Ste. Marie	.....	.....	.....	.....	2.55 D	.....	3,864.62 D
Missouri Pacific	9.74	.....	.....	.....	.....	.....	428.53 D
New York Central	.....	.....	.....	.....	.....	.....	.....
New York, Chi. & St. L	.....	.....	.....	.....	.....	.....	.....
Northern Pacific	.....	.....	.....	.....	.....	.....	53.91 D
Pennsylvania	.....	.....	.....	.....	.....	.....	.....
Toledo, St. L. & Western	.....	.....	.....	.....	.....	.32 D	.....
Union Pacific	.....	.....	.....	.....	.....	.....	314.45 D
Wabash	4,144.13	625.86	.....	.....	72.24	6.27	362.68 D
Waterloo, Cedar Falls & Nor	.....	.....	.....	.....	.....	.....	14.72 D
Total	8,425.32	4,612.90	85.80	.....	56.72	42.49	13,855.58 D

Accounting Department, St. Louis, Missouri, September 19, 1929.

	10.37	.....	.....	.....	.....	.....	10.37	.....	10.37
	6.42 D	.....	21.16	.....	.51	.....	15.25	.....	15.25
D	77.18 D	123.99	11.41 D	1,240.71	3.51	416.86	85.08 D	2,437.11	2,352.03
	.....	13.51 D	.....	.18 D	.....	4.68	.....	18.30	18.30
	.....	.....	15.87	.....	.....	.....	15.87	2.40	18.27
D	.....	185.40 D	.....	158.27	7.68	57.47	7.68	39.88	47.56
	167.15 D	.....	.....	.....	.....	.....	167.15 D	.....	167.15 D
	96.68 D	.....	.....	.....	.....	.....	96.68 D	.....	96.68 D
	329.90 D	.....	498.94	34.34	2.71	4.31	169.00	38.65	207.65
	3,864.62 D	294.44 D	247.16	89.00	29.56	8.32	3,590.45 D	197.12 D	3,787.57 D
	428.53 D	3.84 D	323.11	16.01 D	58.01	.61	37.67 D	19.24 D	56.91 D
	.....	.....	.....	.....	.....	.55	.....	.55	.55
	.....	.....	.....	.....	.35	.....	.35	.....	.35
	53.91 D	.....	.....	.....	1.11	.....	52.73 D	.....	52.73 D
	.....	.....	.....	.....	.....	.34	.....	.34	.34
D	.....	.....	3.18	.....	.24	.....	3.42	.32 D	3.10
	314.45 D	.....	44.45	.....	1.50	.....	268.50 D	.....	268.50 D
	362.68 D	3.60 D	1,871.89	468.95	768.70	247.96	6,494.28	1,345.44	7,839.72
	14.72 D	.....	12.87	.....	.....	.....	1.85 D	.....	1.85 D
	13,855.58 D	472.36 D	23,801.37	5,963.31	7,219.34	2,919.83	25,732.97	13,066.17	38,799.14

[fol. 1654]

Missouri-Kansas-Texas

Estimated Effect on M.-K.-T. Lines September, 1928, Freight Revenue After Application of Divisions as Revised on June 10th, 1

	Automobiles-Passenger via		Other carloads, first class via		Lumber via		Pe i
	Kansas City	St. Louis	Kansas City	St. Louis	Kansas City	St. Louis	Kansas Ci
				Missouri-Kansas-Texas R. R. Co. as a Western Trunk Line Between			
As Settled	.....	.....	.....	.....	.....	.....	$980.38
Rate Prorate	.....	.....	.....	.....	.....	.....	890.46
Loss	.....	.....	.....	.....	.....	.....	89.92
Roads Benefitting from M.-K.-T. Lines' loss:							
Atchison, Topeka & Santa Fe	.....	.....	.....	.....	.....	.....	62.68
Chicago, R. I. & Pacific	.....	.....	.....	.....	.....	.....	27.24
Total	.....	.....	.....	.....	.....	.....	89.92

Accounting Department, St. Louis, Mo., September 19, 1929.

ouri-Kansas-Texas Lines

ised on June 10th,1929, in I. C. C. Docket 15234; Also Showing Roads Which Would Benefit by M.-K.-T. Lines' Loss of Revenue

s	Petroleum and its products via Kansas City	Petroleum and its products via St. Louis	Other carloads via Kansas City	Other carloads via St. Louis	Less carloads via Kansas City	Less carloads via St. Louis	Total via Kansas City	Total via St. Louis	Grand Total
unk Line Between Kansas City, Mo., and St. Louis, Mo.									
.	$980.38	.....	.....	.....	.....	.....	$980.38	.....	$980.38
.	890.46	.....	.....	.....	.....	.....	890.46	.....	890.46
-	89.92	.....	.....	.....	.....	.....	89.92	.....	89.92
	62.68	.....	.....	.....	.....	.....	62.68	.....	62.68
	27.24	.....	.....	.....	.....	.....	27.24	.....	27.24
	89.92	.....	.....	.....	.....	.....	89.92	.....	89.92

[fol. 1655] Cross-examination.

By Mr. Reidy:

The above figures were never presented to the Interstate Commerce Commission.

By Mr. Towner:

In computing the loss of the Missouri-Kansas-Texas Railway, loss on traffic to and from non-respondent lines was included only where the non-respondent line happened to be an intermediate carrier.

Redirect examination.

By Mr. Moore:

The order provides that the formula for dividing this revenue shall be applied to the revenue from traffic originating on a line of one of the respondents in the Southwest and going to a point on a line of a respondent in the Western Trunk Line region, or vice versa. There may be intermediate carriers in there. In that event their revenue will be affected, but I have not included the revenue from any traffic from or to the line of a carrier in either region which is not a respondent in this proceeding (Tr. 66-67).

Witness W. J. Sauer, being produced, sworn and examined on the part of the petitioners, testified that he is Auditor of Freight Revenues of the Texas and New Orleans Railroad Company; that the loss of the Texas and New Orleans Railroad Company which would result if the revenue on traffic for the month of September, 1928, were divided on the basis of the Commission's formula instead of in accordance with the agreements which have prevailed between the various railroads would amount to $11,366.56 for that [fol. 1656] month; that the Texas and New Orleans Railroad is composed of fourteen different railroads, being the Southern Pacific Lines in the Southwestern territory; that he had prepared a statement showing the loss for the Southwestern Lines as a whole. The said statement was offered

in evidence as Petitioners' Exhibit 17 E. F. M., and was received in evidence subject to the same objections by the defendants, to which ruling and action of the Court the defendants, by their counsel, at the time duly excepted and still except (Tr. 68-69).

Cross-examination.

By Mr. Reidy:

Witness testified that the Commission, so far as he knew, had not had the benefit of the said statement.

Witness O. E. Moore, being produced, sworn and examined as a witness on the part of petitioners, testified that he is Auditor of the Louisiana & Arkansas Railroad Company and also has charge of the accounts of the Louisiana Railroad & Navigation Company; that he has prepared a statement showing the loss which would result to the Louisiana Railway & Navigation Company if the revenue on the traffic for the month of September, 1928, were divided in accordance with the Commission's formula in this proceeding instead of in accordance with the agreement of the carriers. That statement shows that the Louisiana Railway & Navigation Company would lose on account of the Commission's said formula the sum of $55.83 during the month of September, 1928. The said statement was received in evidence as Petitioners' Exhibit 18 E. F. M., subject to the same objections on the part of defendants, to which ruling and action of the Court the defendants, by their counsel, at the time duly excepted and still except.

[fol. 1657] Cross-examination:

By Mr. Reidy:

This exhibit, so far as the witness knows, has never been presented to the Commission (Tr. 71-72).

Mr. Moore: May it please the Court, we have also had prepared a drawing or graph showing the relation of the rate scale which the Commission uses or orders shall be used in making up this formula, showng how that scale

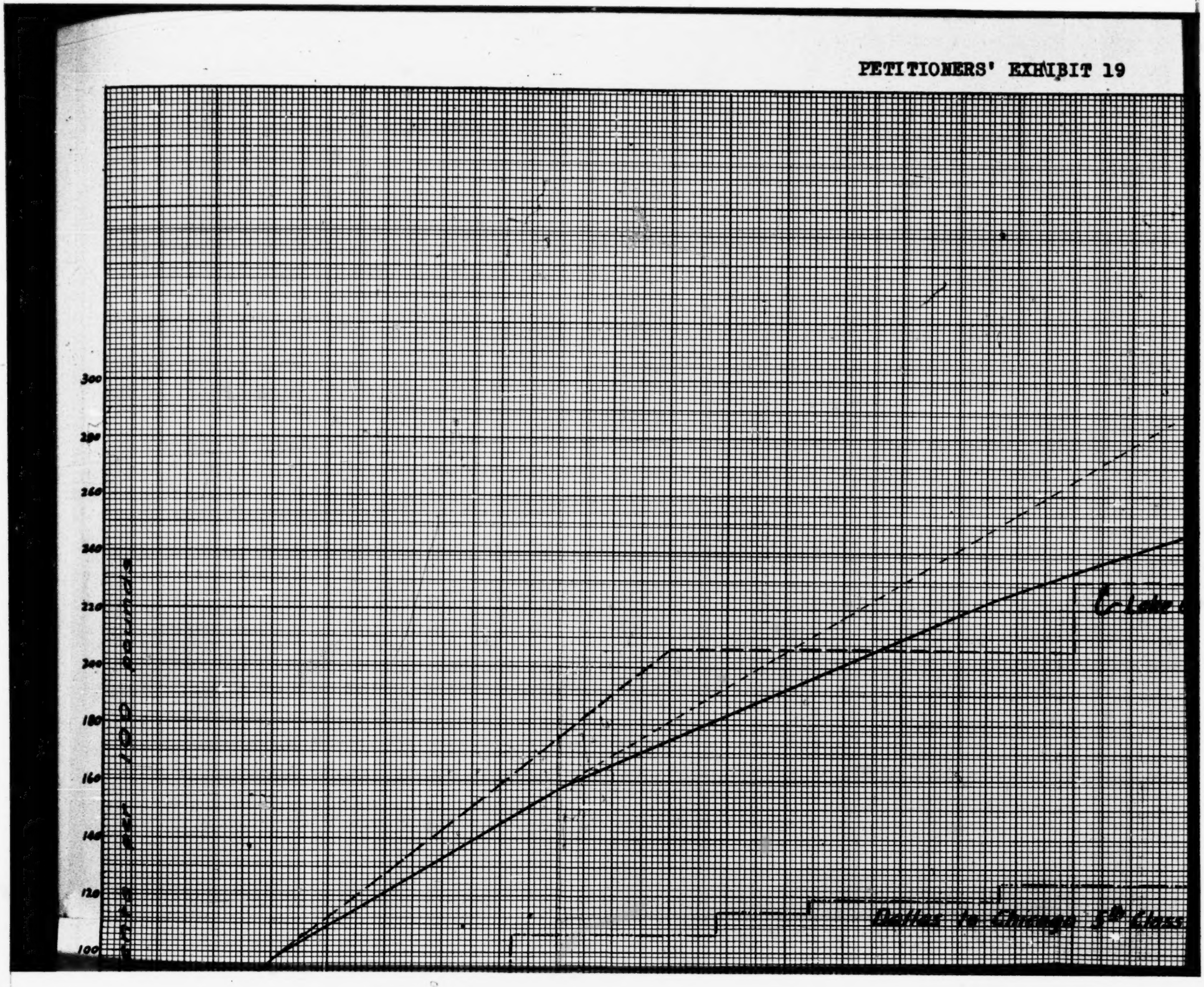
compares with the scales of rates which are actually in effect between the Western Trunk Line Territory and the Southwestern Territory, the purpose of it being to show that the two scales are on a different basis, and to show that there was no reasonable expectation that the use of the formula would produce the result which the Commission's findings, as we contend, require; that is, giving the Southwestern carriers 20% more revenue per ton per mile than was received by the Western Trunk Line carriers.

Witness S. E. SHOUP, being produced, sworn and examined as a witness on the part of the petitioners, testified that he is Assistant Engineer of The Kansas City Southern Railway Company; that he has prepared a drawing showing the relation, of the Southwestern First Class Scale of Rates which was prescribed by the Commission as the basis of the formula upon which it ordered the revenue on traffic between the Western Trunk Lines and the Southwestern Lines divided, and representative rates which are actually in effect between the Western Trunk Lines and the Southwestern Lines; that the scale on the bottom of the chart is the distance expressed in miles; that the rate in cents per 100 pounds can be taken off the left-hand margin; that the dotted line which has the notation "Constant progression scale" is the projection of the progressional load [fol. 1658] between 160 and 200 miles carried out to 1,400 miles; that that projection shows how the scale would progress if it went forward in a constant ratio to the cost. Petitioners, through their counsel, offered the said drawing in evidence as Petitioners' Exhibit 19 E. F. M. Mr. Towner, counsel for the intervening railroad defendants, objected, in the first place, because the drawing was not presented to the Commission at the hearing, and in the second place, because the Commission itself specifically said that it did not prescribe a class rate prorate, and that the said exhibit was incompetent, irrelevant and immaterial and did not have the slightest connection with the case. The same objection was made on behalf of the Interstate Commerce Commission and the United States. The said exhibit was received in evidence, subject to objections, as Petitioners' Exhibit 19 E. F. M., to which ruling and action of the Court, the de-

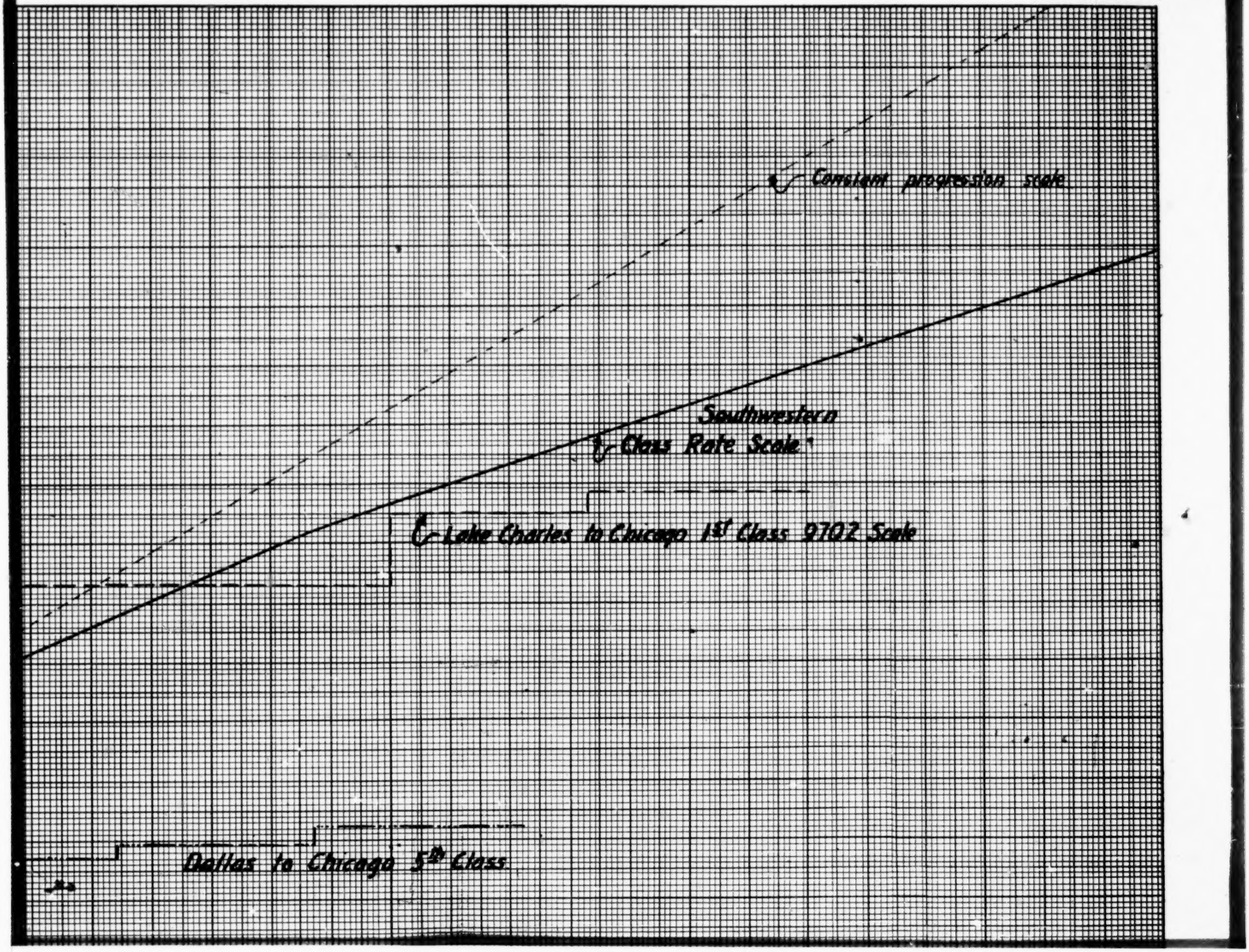
fendants, by their counsel, at the time duly excepted and still except (Tr. 73-76). The said exhibit is in words and figures as follows, to-wit:

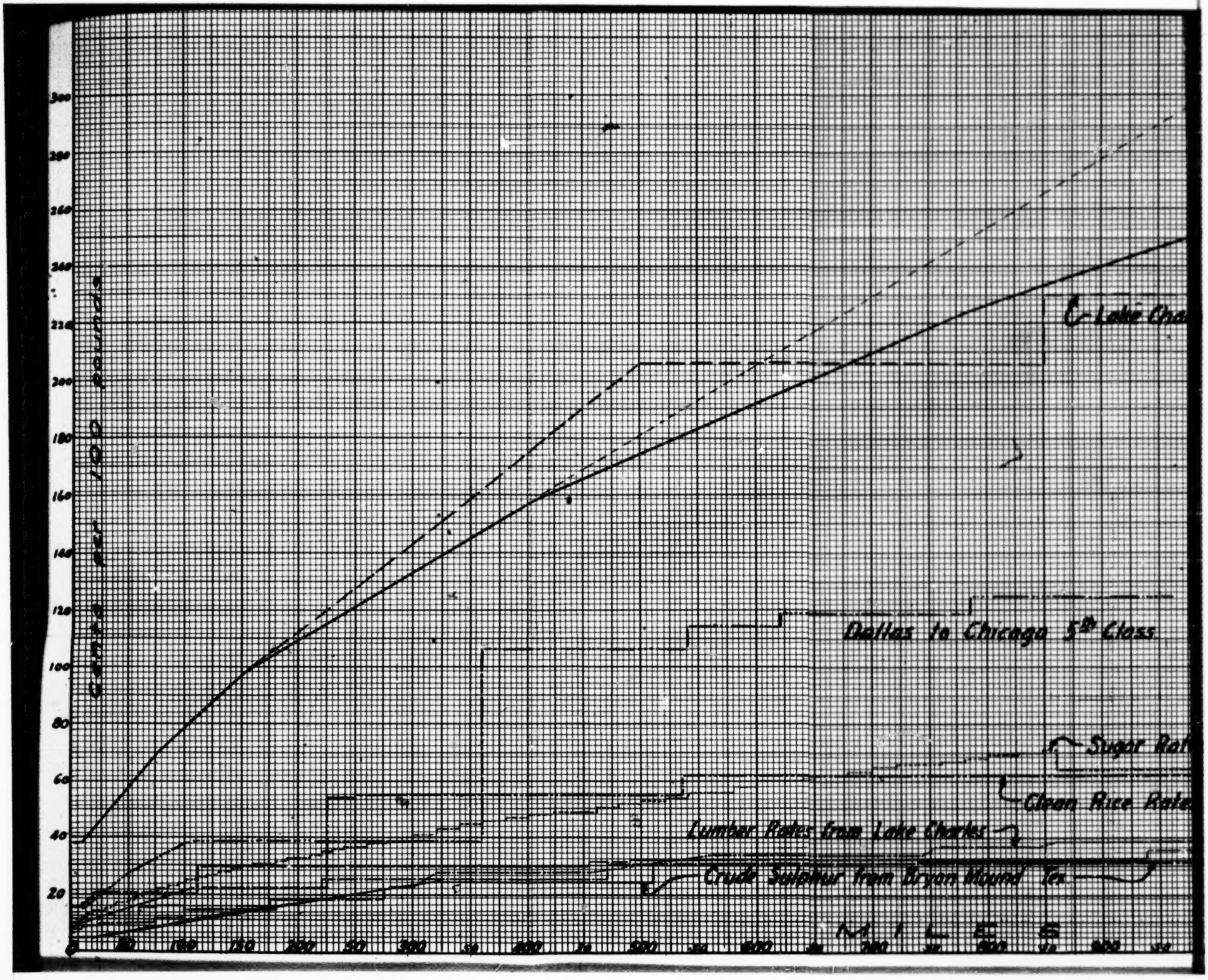
(Here follows Petitioners' Exhibit 19, side folio 1659)

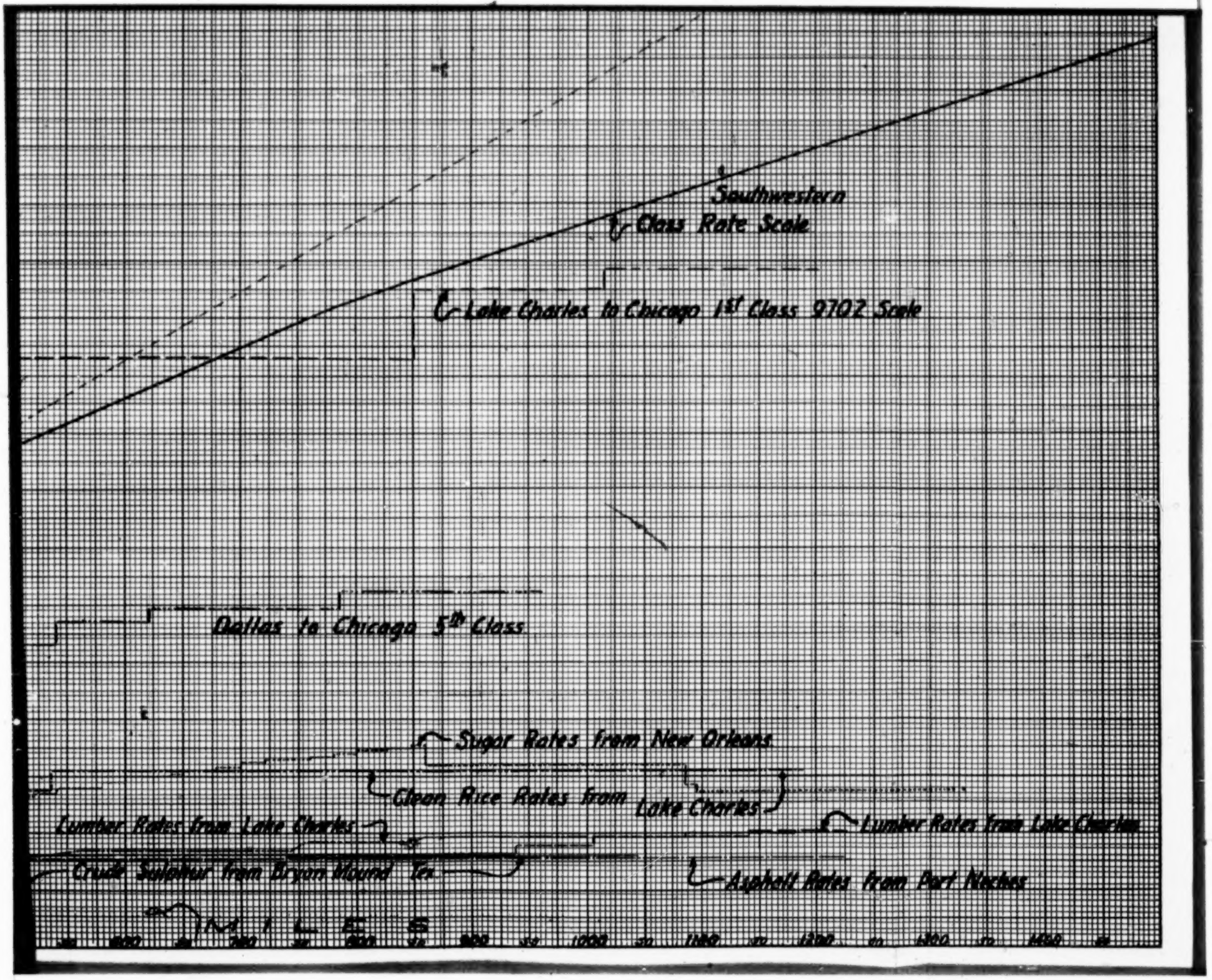
PETITIONERS' EXHIBIT 19



PETITIONERS' EXHIBIT 19




Cents per 100 pounds
300
280
260
240
220
200
180
160
140
120
100
80
60
40
20
Lake Cha
Dallas to Chicago 5th Class
Sugar Rat
Clean Rice Rate
Lumber Rates from Lake Charles
Crude Sulphur from Bryan Mound Tex


Southwestern
Class Rate Scale
Lake Charles to Chicago 1st Class 9702 Scale
Dallas to Chicago 5th Class
Sugar Rates from New Orleans
Clean Rice Rates from Lake Charles
Lumber Rates from Lake Charles
Lumber Rates from Lake Charles
Crude Sulphur from Bryan Mound Tex
Asphalt Rates from Port Neches

[fol. 1660] Cross-examination.

By Mr. Reidy:

This exhibit was not presented to the Commission.

Witness L. J. Hensley, being produced, sworn and examined as a witness on the part of the petitioners, testified that he is Comptroller of The Kansas City Southern Railway Company; that he is familiar with the accounting reports that are made by the railroad companies to the Interstate Commerce Commission; that the term "annual report" has a well understood significance; that the annual report is an annual return made to the Commission by the carriers, giving information on forms as prescribed by the Commission; that it is a printed book calling for certain [fol. 1661] information that is filled in by the carriers and furnished to the Commission; that the annual report does not call for a statement of the traffic density of the carriers segregated to each state, that is, showing the traffic density in each state through which the carrier operates; that the witness does not make any such report to the Interstate Commerce Commission as to the traffic density by states; and that no such information is furnished in the annual report (Tr. 77-78).

The witness further testified that he had prepared a list showing all the railroads in the Western Trunk Line region and the Southwestern region, respectively, and that the said list was correct according to the best of his knowledge and belief. Petitioners, through their counsel, offered the said list in evidence as Petitioners' Exhibit No. 20 E. F. M., and the same was received in evidence, subject to the same objections as to the other exhibits, to which ruling and action of the court the defendants, by their counsel, at the time duly excepted and still except. The said list is in words and figures as follows:

Petitioners' Exhibit 20

Statement Showing the Names of All Railroad Companies Which Have Mileage in the Western Trunk Line Territory and Southwestern Territory, Respectively, as Those Territories were designated by the Commission in its Report in I. C. C. Docket No. 15234, 148 I. C. C. 457, 458; Together with the Classification of said Railroads

Western Trunk Line Territory

The Western Trunk Line territory was defined by the Commission as embracing the States of Iowa, Minnesota, Wisconsin, Illinois, North Dakota, South Dakota, Missouri, on and north of the main line of the Missouri Pacific between Kansas City and St. Louis, and the Upper Peninsula of Michigan (148 I. C. C. 457).

Name of Carrier

Class I:

The Atchison, Topeka and Santa Fe Railway Company.
The Baltimore and Ohio Railroad Company.
Canadian National Railways.
[fol. 1662] The Chesapeake and Ohio Railway Company.
Chicago and Northwestern Railway Company.
The Chicago and Alton Railroad Company.
Chicago, Burlington & Quincy Railroad Company.
Chicago and Eastern Illinois Railway Company.
Chicago Great Western Railroad Company.
Chicago and Illinois Midland Railway Company.
Chicago, Indianapolis and Louisville Railway Company.
Chicago, Milwaukee, St. Paul and Pacific Railroad Company.
The Chicago, Rock Island and Pacific Railway Company.
Chicago, St. Paul, Minneapolis and Omaha Railway Company.
The Cleveland, Cincinnati, Chicago and St. Louis Railway Company.
The Duluth and Iron Range Railroad Company.
Duluth, Missabe and Northern Railway Company.
The Duluth, South Shore and Atlantic Railway Company.
Elgin, Joliet and Eastern Railway Company.
Erie Railroad Company.
Grand Trunk Railway System.
Great Northern Railway Company.
Green Bay and Western Railroad Company.
Illinois Central Railroad Company.
Lake Superior & Ishpeming Railroad Company.
Louisville and Nashville Railroad Company.
The Michigan Central Railroad Company.
The Minneapolis & St. Louis Railroad Company.

Minneapolis, St. Paul & Sault Ste. Marie Railway Company.
Missouri-Kansas-Texas Railroad Company.
Missouri Pacific Railroad Company.
Mobile & Ohio Railroad Company.
The New York Central Railroad Company.
The New York, Chicago and St. Louis Railroad Company.
Northern Pacific Railway Company.
The Pennsylvania Railroad Company.
Pere Marquette Railway Company.
Quincy, Omaha & Kansas City Railroad Company.
The St. Joseph and Grand Island Railway Company.
St. Louis Southwestern Railway Company.
Southern Railway Company.
Toledo, Peoria & Western Railway Company.
Union Pacific Railroad Company.
Wabash Railway Company.

Class II:

Alton & Eastern Railroad Company.
Chicago, Springfield & St. Louis Railway Company.
Copper Range Railroad Company.
Davenport, Rock Island and Northwestern Railway Company.
Duluth & Northeastern Railroad Company.
Escanaba and Lake Superior Railroad Company.
Farmers Grain and Shipping Company.
Illinois Terminal Company.
Jacksonville & Havana Railroad Company.
Jefferson Southwestern Railroad Company.
Kewanee, Green Bay and Western Railroad Company.
LaCrosse and Southeastern Railway Company.
Litchfield and Madison Railway Company.
Manistique and Lake Superior Railroad Company.
Marinette, Tomahawk & Western Railroad Company.
Midland Continental Railroad.
Mineral Range Railroad Company.
[fol. 1663] Mineral Point and Northern Railway Company.
Minneapolis, Northfield and Southern Railway.
Minneapolis & Rainy River Railway Company.
Minneapolis, Red Lake and Manitoba Railway Company.
Minnesota, Dakota & Western Railway Company.

Minnesota and International Railway Company.
Minnesota Western Railroad Company.
Missouri-Illinois Railroad Company.
Paducah & Illinois Railroad Company.
Rock Island Southern Railway Company.
St. Louis and Hannibal Railroad Company.
The St. Louis and O'Fallon Railway Company.
St. Louis and Ohio River Railroad.
Wisconsin & Michigan Railroad Company.

Class III:

Atlantic Northern Railway Company.
Cape Girardeau Northern Railway Company.
Cazenovia Southern Railroad Company.
The Ettrick & Northern Railroad Company.
The Galesburg and Great Eastern Railroad Company.
Hanover Railway Company.
Hillsboro and Northeastern Railway Company.
Hooppole, Yorktown and Tampico Railroad Company.
Houghton, Chassell & Southwestern Railway.
The Kansas & Sidell Railroad Company.
Laona & Northern Railway Company.
Macomb, Industry & Littleton Railway Company.
Manchester and Oneida Railway Company.
Ontonagon Railroad Company.
Peoria, Hanna City & Western Railway Company.
Rapid City, Black Hills & Western Railroad Company.
Rockport, Langdon & Northern Railway Company.
Rutland, Toluca & Northern Railroad Company.
Shelby County Railway Company.
Superior & Southeastern Railway Company.
Tabor and Northern Railway Company.
The Westfield Railroad Company.
Yale Short Line Railroad Company.

Southwestern Territory

The Southwestern Territory was Defined by the Commission as embracing the States of Texas, Arkansas, Oklahoma, Louisiana, west of the Mississippi River, and Missouri, south of the main line of the Missouri Pacific between Kansas City and St. Louis (148 I. C. C. 458).

Name of Carrier

Class I:

The Atchison, Topeka and Santa Fe Railway Company.
The Beaumont, Sour Lake & Western Railway Company.
The Chicago, Rock Island and Gulf Railway Company.
The Chicago, Rock Island and Pacific Railway Company.
Fort Smith and Western Railway.
Fort Worth and Denver City Railway Company.
[fol. 1664] Fort Worth & Rio Grande Railway Company.
Gulf, Colorado and Santa Fe Railway Company.
International-Great Northern Railroad Company.
The Kansas City, Mexico and Orient Railway Company.
Kansas City, Mexico and Orient Railway Company of Texas.
The Kansas City Southern Railway Company.
Kansas, Oklahoma & Gulf Railway Company.
Kansas, Oklahoma & Gulf Railway Company of Texas.
Louisiana & Arkansas Railway Company.
Louisiana Railway and Navigation Company.
Louisiana Railway & Navigation Company of Texas.
Midland Valley Railroad Company.
Missouri-Kansas-Texas Railroad Company.
Missouri-Kansas-Texas Railroad Company of Texas.
Missouri and North Arkansas Railway Company (W. Stephenson, Receiver).
Missouri Pacific Railroad Company.
New Orleans, Texas & Mexico Railway Company.
Panhandle and Santa Fe Railway Company.
The St. Louis, Brownsville and Mexico Railway Company.
St. Louis-San Francisco Railway Company.
St. Louis, San Francisco and Texas Railway Company.
St. Louis Southwestern Railway Company.
St. Louis Southwestern Railway Company of Texas.
San Antonio, Uvalde & Gulf Railroad Company.
Texarkana and Fort Smith Railway Company.
Texas and New Orleans Railroad Company.
The Texas Mexican Railway Company.
The Texas and Pacific Railway Company.
The Trinity and Brazos Valley Railway Company (John A. Hulen, Receiver).
The Wichita Valley Railway Company.
The Yazoo and Mississippi Valley Railroad Company.

Class II:

Abilene and Southern Railway Company.
Arkansas & Louisiana Missouri Railway Company.
Ashley, Drew & Northern Railway Company.
Blytheville, Leachville & Arkansas Southern Railroad Company.
Brimstone Railroad & Canal Company.
Cisco & Northeastern Railway Company.
Deering Southwestern Railway.
DeQueen and Eastern Railroad Company.
Galveston, Houston and Henderson Railroad Company.
Graysonia, Nashville & Ashdown Railroad Company.
Groveton, Lufkin & Northern Railway Company.
The Gulf & Sabine River Railroad Company.
Gulf, Texas & Western Railway Company (W. Frank Knox, Receiver).
Houston and Brazos Valley Railroad Company.
The Louisiana and North West Railroad Company.
Miami Mineral Belt Railroad Company.
Mississippi River and Bonne Terre Railway.
Missouri-Illinois Railroad Company.
Missouri Southern Railroad Company.
New Iberia & Northern Railroad Company.
Northeast Oklahoma Railroad Company.
Oklahoma City-Ada-Atoka Railway Company.
Oklahoma-Southwestern Railway Company.
Oklahoma Union Railway Company.
Okmulgee Northern Railway Company.
The Orange & Northwestern Railroad Company.
Osage Railway Company.
[fol. 1665] Paris and Mt. Pleasant Railroad Company (R. W. Wortham, Receiver).
The Prescott and Northwestern Railroad Company.
Quanah, Acme & Pacific Railway Company.
Reader Railroad.
Red River and Gulf Railroad.
Rio Grande and Eagle Pass Railway Company.
Roscoe, Snyder and Pacific Railway Company.
San Antonio Southern Railway Company.
San Benito & Rio Grande Valley Railway Company.
The Sligo & Eastern Railroad Company.
Sugar Land Railway Company.

Texas Southeastern Railroad Company.
Texas, Oklahoma & Eastern Railway Company.
Tremont & Gulf Railway Company.
Waco, Beaumont, Trinity & Sabine Railway Company.
The Weatherford, Mineral Wells & Northwestern Railway Company.
Wichita Falls & Southern Railroad Company.

Class III:

Angelina & Neches River Railroad Company.
Aransas Harbor Terminal Railway.
Arkansas Railroad Company.
Arkansas Short Line.
The Arkansas Western Railway Company.
Asherton and Gulf Railway Company.
Asphalt Belt Railway Company.
Augusta Railroad Company.
Bartlett Western Railway.
Bauxite & Northern Railway Company.
Beaver, Meade and Englewood Railroad Company.
Brookings & Peach Orchard Railroad Company.
Caddo & Choctaw Railroad Company.
Cairo, Truman & Southern Railroad Company.
Cape Girardeau Northern Railway Company (Clarence L. Grant, Receiver).
Caro Northern Railway Company (W. M. Ross, Receiver).
Central Railway Company of Arkansas.
Christie & Eastern Railway Company.
Dardanelle & Russellville Railroad Company.
The Denison and Pacific Suburban Railway Company.
Doniphan, Kensett & Searcy Railway.
Eastland, Wichita Falls & Gulf Railroad Company.
East Texas and Gulf Railway Company.
El Dorado and Wesson Railway Company.
Fordyce and Princeton Railroad Company.
Fort Smith, Subiaco & Rock Island Railroad Company.
Fredericksburg & Northern Railway Company.
Gideon and North Island Railroad Company.
Grand Prairie Branch Railroad Company.
Gulf & Northern Railway Company.
Hamlin & Northwestern Railway Company of Texas.
Jefferson & Northwestern Railway Company.

Kinder & Northwestern Railroad Company.
Leesville, Slagle and Eastern Railway Company.
The Louisiana & Pine Bluff Railway Company.
Louisiana Southern Railway Company.
Lufkin, Hemphill and Gulf Railway Company.
Manila & Southwestern Railway Company.
The Mansfield Railway & Transportation Company.
Marshall, Elysian Fields and Southeastern Railway Company.
Montana Railroad.
[fol. 1666] Moscow, Camden & San Augustine Railroad.
Murfreesboro-Nashville Southwestern Railway Company.
The Nacogdoches & Southeastern Railroad Company.
The Natchez, Urania and Ruston Railway Company.
North Louisiana & Gulf Railroad Company.
Oakdale & Gulf Railway Company.
Oklahoma & Rich Mountain Railroad Company.
Ouachita and Northwestern Railroad Company.
The Pecos Valley Southern Railway Company.
Pittsburg County Railway Company.
Port Isabel & Rio Grande Valley Railroad.
Rio Grande City Railway Company.
Rio Grande, Micolithic and Northern Railway.
The Roby and Northern Railroad Company.
Rockdale, Sandow & Southern Railway.
Sabine & Neches Valley Railway Company.
The Sibley, Lake Bisteneau & Southern Railway Company.
Shreveport, Houston & Gulf Railroad Company.
Texas-New Mexico Railway Company.
Texas Short Line Railway Company.
Thornton and Alexandria Railway Company.
Trinity Valley & Northern Railway Company.
Trinity Valley Southern Railroad Company.
The Union Traction Company (John F. Layng, Receiver).
Uvalde & Northern Railway Company.
Warren & Ouachita Valley Railway Company.
Warren & Saline River Railroad Company.

Switching and terminal companies are not included.

Petitioners also offered to prove, by the same witness, that for the first six months of the year 1929, based upon

the book value, which is the basis which was used by the Commission in determining the rates of return of the carriers, the northwestern region had a return, for that period of six months, on an annual basis, of 5.08 per cent per annum, the Central Western region 5.83 per cent per annum, and the Southwestern region 4.69 per cent per annum; that the Western Trunk Line carriers are located in the eastern parts of the Northwestern region and the Central Western region; that the condition of the Western Trunk Line carriers as shown by the figures for the first six months of 1929, is better than that of the Southwestern carriers. Mr. Towner, counsel for the Western Trunk Line [fol. 1667] respondents, objected to the said offer of proof on the grounds that it is incompetent and inadmissible, having no evidentiary value in the case, and that the same is not a matter which the Court can consider in the exercise of the statutory jurisdiction in this case. Mr. Collins, counsel for the United States, concurred in the above objections, and also on the ground that the opinion of the Commission was issued on December 10, 1928, and that the figures offerred which are those of 1929, are subsequent to the admissions and conclusions of fact before the Commission. Mr. Reidy, counsel for the Interstate Commerce Commission, concurred in the objections of the United States. The objection was sustained, to which ruling and action of the Court petitioners, by their counsel, duly excepted and still except.

Mr. Towner, counsel for the Western Trunk Line respondents, objected also for the reason that the said Southwestern and Northwestern regions include territories not involved in the Commission's decision, and include a great number of railroad companies which are not respondents. The objection was sustained, and petitioners duly excepted and still except (Tr. 81-84).

Cross-examination.

By Mr. Collins:

"Q. I wanted to ask about this report. What report did you describe in the beginning to Mr. Moore concerning the traffic figures, or discrepancy of traffic density?

"A. Mr. Moore asked me if the annual report to the Interstate Commerce Commission included a statement of traffic density by states, and I answered that it does not.

"Q. All I want to get fixed is as to just what report you had in mind, whether it was the printed form that is mailed [fol. 1668] out each year by the Commission and upon which returns are made to the Commission?

"A. There is only one report to the Interstate Commerce Commission rendered by carriers, so far as I know, that is termed the 'annual report.' That is the form of book report that I described.

"Q. You are referring to the printed form report published by the Commission upon which returns are made?

"A. Yes, sir."

Redirect examination.

By Mr. Moore:

The Quincy, Omaha & Kansas City Railroad Company belon[illegible] the railroad system of the Chicago, Burlington & C[illegible]ailroad Company. The Chicago, Burlington & [illegible]y Railroad Company is the owner of the capital stock of the Quincy, Omaha & Kansas City. The Minneapolis, St. Paul & Sault Ste. Marie Railway Company belongs, through ownership of capital stock, to the Canadian Pacific Railroad Company. I believe they do not own all of the capital stock, but they own a controlling interest in it. The Texarkana and Fort Smith Railway Company and The Arkansas Western Railway Company both belong to the Kansas City Southern through ownership of all of the outstanding stock of those companies.

Whereupon, the Court stood at recess until two o'clock P. M., of said Friday, September 20, 1929 (Tr. 84-86).

Afternoon Session, Friday, September 20, 1929

Pursuant to adjournment as aforesaid, at two o'clock p. m., of said Friday, September 20, 1929, the Court met, present and presiding as before, and the hearing proceeded.

Mr. Towner, counsel for the Western Trunk Line respondents, announced that he had prepared the answer of those railroads to the amended bill, which he would file, there being no objection.

[fol. 1669] Witness L. J. HENSLEY resumed the stand on behalf of the petitioners, having been previously duly sworn, and further testified as follows:

Redirect examination.

By Mr. Moore:

"Q. You testified that the annual report which the railroads are required to make to the Interstate Commerce Commission does not call for information as to the traffic density by each state through which the road operates. Have you a copy of that publication of the Commission in which you are required to furnish the information?

"A. I have a copy of the form of the report for the year ended December 31, 1927.

"Mr. Moore: We offer that in evidence to show just what it does call for."

(The said report was marked by the reporter as Petitioners Exhibit 21 E. F. M., and was received in evidence.)

Petitioners, through their counsel, also offered in evidence the transcript of the argument at the hearing on the said proceeding before the Commission. There being no objection, the same was received in evidence as Petitioners' Exhibit 22 E. F. M., which being offered in evidence is in words and figures as follows (Tr. 6181-6248):

[fol. 1670] PETITIONERS' EXHIBIT 22

BEFORE THE INTERSTATE COMMERCE COMMISSION

Docket No. 15234

In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories

Main Hearing Room, I. C. C. Building, Washington, D. C.

Friday, January 13, 1928.

The above-entitled matter came on for oral argument before the full Commission, pursuant to notice, at ten o'clock a. m., Friday, January 13, 1928.

Before Commissioners Meyer (Acting Chairman), Aitchison, Brainerd, Eastman, Esch, Lewis, McManamy, Taylor and Woodlock.

Appearances:

Mr. F. H. Towner, 38 South Dearborn St., Chicago, Ill., on behalf of the Western Trunk Lines;

Mr. G. H. Muckley, 205 Transportation Building, Washington, D. C., on behalf of the Southwestern Lines;

Mr. R. S. Outlaw, 1211 Railway Exchange, Chicago, Ill., on behalf of the Southwestern Lines.

Proceedings

Commissioner Meyer: The argument this morning is on Docket No. 15234, in the matter of the divisions of freight rates in Western and Mountain-Pacific territories.

Mr. Towner, we are ready.

One hour has been assigned to each side.

Argument of Mr. F. H. Towner in Behalf of the Western Lines

Mr. Towner: May it please your Honors, in this case I [fol. 1671] represent one entire side of the controversy, that is to say the following railroads: The Chicago & Alton Railroad Company, Chicago Great Western Railroad Company, Chicago & Northwestern Railway Company, Chicago, St. Paul, Minneapolis & Omaha Railway Company, Chicago & Eastern Illinois Railway Company, Chicago, Milwaukee & St. Paul Railway Company, Minneapolis & St. Louis Railroad Company, Chicago, Burlington & Quincy Railroad Company, Wabash Railway Company and the Illinois Central Railroad Company, and all of the incidental receivers of various of those lines.

Commissioner Meyer: Well, incidentally, there are not as many today as there were a few days ago.

Mr. Towner: I know; that is my misfortune, Mr. Commissioner.

The case itself involves the divisions of all of the traffic moving between Western Trunk Lines and Southwestern territories and also divisions as between the Southwestern Lines and the so-called Western Trunk Lines, all the lines

which cross west of certain territory and traffic between Southwestern territory and Eastern territory.

I had a map made up to show the territories and the gateways.

Before I go to the map, I want to give the Commission some of the history of this thing. Several thousand pages of testimony is in the record and there are many hundreds of exhibits, and it will obviously be impossible to do more than touch the high spots in an hour's argument. However, I think that will be sufficient for that purpose.

This case was started back in October, 1923, and it was a Commission investigation; that is to say, an order was made instituting a general investigation not only of the Southwestern divisions but divisions on Trans-Continental traffic and the so-called Trans-Missouri traffic. After the investigation was started there were some conferences held in Washington before Mr. Potter who then had charge of [fol. 1672] the case, the conferences being held for the purpose of making a settlement, if possible, of the Trans-Continental divisions. I understand that it started at that time. The effort was not successful and the Trans-Continental division went to hearing and we struggled along for a long time and made an enormous record of many, many exhibits, and after we did that the roads interested made a settlement which produced some increase to the Western Trunk Lines, but the revenue transferred was fairly substantial. The settlement made at that time also covered the Trans-Missouri division as to which there had been no hearing. No order has ever been made by this Commission with respect to those two features of the case. Mr. Disque, the Examiner, was present at some of the conferences and at least that preceded the settlement of the Trans-Missouri and the Trans-Continental divisions. But, as I say, no order has been made with respect to these divisions but, so far as we are concerned, they are disposed of.

That left the divisions on traffic to and from the Southwest. We had a number of hearings in that part of the case, four or five as I recall it, and accumulated quite a record, several thousand pages of testimony and many hundreds of exhibits.

The respondents in the case, so far as Western Trunk Lines are concerned, are all the principal roads operating in Western Trunk Line territory defined in the Commission's order. I would not dare say that with respect to Southwestern Lines because the contention has been made that certain lines not named as respondents should be. As a matter of fact, the Southwestern Lines asked that all the short lines in the Southwest be made respondents. That petition, however, was denied by the Commission.

Now, the territory that is involved in the Commission's order is outlined on this map (indicating). The radiant color down here (indicating) outlines the Southwestern territory and this funeral black surrounds Western traffic [fol. 1673] lines territory. These lines indicate the divisions of traffic to and from Texas. These divisions, to me, are a terrible mess. I do not know how else to describe them. I have been playing around the case for two or three years and do not know much about the case, at least not much more about it now than when we started. We had to put in 33 maps to show the divisional groups, North and South. The division seems to vary not only with the territories but sometimes with respect to different rates on the same hauls; consequently, on one map it is impossible to put all these groupings, but I am advised by the traffic men that these maps or rather these groups on Texas traffic, in general, are representative of the traffic to and from the other territories. If I am wrong, some of the able counsel present will correct me.

Most of the traffic moves through Kansas City, St. Louis, and Cairo. Cairo, however, is an unimportant gateway for most of the traffic goes through Kansas City and St. Louis, and, of that traffic, most of it goes through Kansas City.

Commissioner Eastman: Is there any significance attached to the coloring of the map?

Mr. Towner: There is, in the black, Mr. Eastman. I did not pick the color out but any of us would have if we had been surrounding Western traffic lines.

The divisions are difficult to explain orally. It was difficult to explain when I was writing the brief. Even when I was writing the brief, when I had no opposition or cross-examination to meet, I found it difficult.

I have drawn up a statement of the principal divisions which, however, for the most part apply on merchandise per

cents. On the Southwestern, contrary to the arrangement that existed on the Trans-Continental traffic, there are a great variety of per cents. These vary with the junctions. [fol. 1674] Sometimes with the railroad that handles the traffic.

The principal traffic between Western Trunk Line territory and Southern is lumber and oil which is practically all north-bound, the oil from Oklahoma, Louisiana, Texas and Arkansas and the lumber from the lumber territory in the Southwest. It is very, very difficult to outline these divisions because they vary with almost every destination. From Texas, via Kansas City, the Western Trunk Lines, to Chicago, get 30 per cent of revenue, and the Southwest 7 per cent, St. Louis 18 to 20, and Milwaukee division some. St. Paul, I think, gets the balance of the rates after the Southwestern have taken 70 per cent, that balance of the rate being composed, as I recall it, of the balance of the through rate to Chicago, plus arbitraries, or something of that sort.

From Louisiana to Chicago, via Kansas City, 60 per cent goes to the South and 40 to the North. Those are merchandise per cents which do not move the majority volume of the traffic. I do not know that it adds much to anybody's understanding of the record to have a lot of these per cents given. You will find attached to the back of the tentative report that was gotten out by the Examiner this statement which was taken from exhibits put into the record which show the revenue is divided and how the revenue is divided which is the important thing, by the three gateways mentioned.

Commissioner Meyer: Before you go into the report: referring to the division of 60 South and 40 North; in a word, what is the explanation?

Mr. Towner: Well, I do not know. The fact of the matter is that most of these merchandise per cents have been in effect a good many years; most of them were established in the nineties, some time, if I am not mistaken, in the early nineties and, except for some slight changes, they have been in effect ever since.

[fol. 1675] Commissionr Meyer: Does it mean that one set predominates in the North and one in the South?

Mr. Towner: I do not know, Mr. Commissioner; that is shrouded in mystery.

Commissioner Meyer: What is the present explanation for the difference in the present North and South rates? The South takes 60 per cent?

Mr. Towner: They take 60 on the revenue and the——

Commissioner Meyer (interposing): And the companies North 40?

Mr. Towner: No.

Commissioner Meyer: I got the impression the division was one thing when the traffic movement was South and quite different when it was North.

Mr. Towner: Not on the merchandise per cent. Take the Texas division of 70-30; that would be the same whether the traffic moved North or South and the same thing is true with traffic of the other groups to other destinations. They apply between, as a rule, in every case.

Commissioner Eastman: Did the lines you represent propose a substitute basis?

Mr. Towner: We did. We had no luck with it. The tentative report here——

Commissioner Eastman (interposing): Did you attempt to justify that basis by the various factors and considerations as named in the Statute?

Mr. Towner: Yes, to the best of my ability. The report winds up in this fashion——

Commissioner Taylor (interposing): What page?

Mr. Towner: Page 23: "No such convincing showing has been made as would justify affirmative action on the part [fol. 1676] of this Commission with respect to the divisions in the aggregate, but there is much reason to believe that a constructive revision of individual divisions by the carriers interested would be warranted." That disposes of this litigation so far as the Examiner is concerned.

That brings me up to the first objection that I have to the report: this is a Commission investigation, that is to say the Commission so far as this record shows, wanted to know what the divisions were and what, if anything, was wrong with them. Otherwise, they would not have started an investigation. This is not an affirmative complaint. No complaint whatever has been filed in the case.

I understood that in general investigations by this Commission, that the activities of the Commission and the representatives of the Commission were bent with an effort to

get into the record what was necessary to enable the Commission to decide the issues presented to it and covered by the investigation. That is not this kind of a report. In the first place, one set of lines are named as "plaintiffs" and the other "defendants". I do not particularly object to that or to the nomenclaure (nomenclature), but the effect *is that that attitude has been and the effect* of that attitude has been to impose on the Western Trunk Lines the great burden of proof as under an affirmative complaint case, and the Examiner winds up, as I have said, by saying: "No such convincing showing has been made"—I presume by us, "as would justify affirmative action on the part of the Commission with respect to the divisions in the aggregate, but there is much reason to believe that a constructive revision of individual division by the carriers interested would be warranted." The form of the report is unimportant, but the conclusion is important.

What I have in mind is this: in Western territory we have had under way from time to time various efforts to increase our revenue for we think it is too low, and this Commission has said it is too low; we have two places from [fol. 1677] which to get money, either from connecting lines, increasing divisions, or from the public in increased rates.

In this particular case, what I would like to know from the Commission is whether or not these divisions with the Southwestern Lines are right. In other words, if we are not entitled to increases in these divisions the finding of the Examiner should have been and the ruling of the Commission should be that the division is proper, not that any such finding as is reported by the Examiner should be made, that "No such convincing showing has been made as would warrant" this Commission to change the rates.

Commissioner Taylor: You say that 33 maps have been filed in connection with this matter and there have been two or three years study of the subject. What is your opinion of it?

Mr. Towner: I think the rate is all wrong and we should get a mileage pro rate.

Commissioner Taylor: All right.

Mr. Towner: That has been my position in this case.

Commissioner Taylor: I thought from your remarks that you were endorsing the report.

Mr. Towner: Who, I?

Commissioner Taylor: I thought you were endorsing the report, the way you were starting out at it.

Mr. Towner: Not exactly. I had intended to get around, sooner or later, to a condemnation of it.

Commissioner Taylor: I wanted to get that clear.

Mr. Towner: At any rate, with respect to this one point: I think that under this form of investigation we are entitled to a finding of either "Yes" or "No." We want to know—and to this extent I certainly speak for all the Western Trunk Lines—we want to know, we Western Lines, if we are entitled to money by increased divisions with the [fol. 1678] Southwestern connections. We have been before the Commission and certain proceedings—if our contentions are upheld, will increase our revenue if everything goes all right. We have settled the Trans-Continental case, subject of course to your approval: that is one door that is closed. If we get an increase in class rates that is another door that is closed. If we get an increase in Southwestern divisions that is another one.

In a nutshell, that is my first objection to this report; if it has to be bad news I would like to have it definite.

Commissioner Meyer: I am a little puzzled by your last expression; there seems to be, to your mind, a series of alternatives but the choice to you is a "closed door."

Mr. Towner: The "closed door" results in this situation: we either get money, more money, or we do not. The Examiner finds, for example—here is a sample of a finding for a recommendation of his for a finding: "No such convincing showing has been made as would justify affirmative action on the part of this Commission with respect to the divisions in the aggregate, but there is much reason to believe that a constructive revision of individual divisions by the carriers interested would be warranted."

That, doubtless, would be a desirable thing to do, but as far as I am concerned, and my concern is to get more money for the railroads that I represent, that is purely academic. If the good and bad divisions balances that, there should be no change; that is a matter of the traffic men to take care of. They can fix that up themselves. What I am interested in is to get such a change in the division as will transfer from the Southern to the Western Lines some of the money that the Southwestern is getting under the present division.

That is what I mean when I say there is always "Yes" and "No" as to whether we get anything or not.

Commissioner McManamy: And you have endeavored to bring about by negotiation the result suggested by the Examiner in the last sentence quoted?

[fol. 1679] Mr. Towner: If there has been any action of that sort I did not know of it.

Commissioner McManamy: I understood you to say that you tried to get these divisions adjusted by negotiation.

Mr. Towner: That was with respect to the Trans-Continental division.

Commissioner McManamy: No such effort has been made with respect to these divisions?

Mr. Towner: I should not say that; perhaps I am justified in saying, though it is not in the record, there was a conference held in Washington before Examiner Disque and Mr. Woodlock at which was some effort made to reach an agreement; that meeting was not a part of the record but it was official in character and everybody interested was represented. We got nowhere in the meeting and there were subsequent conferences between the lines which led to nothing. We got nowhere. The Southwestern Lines insisted that nothing be done and we thought something should be done. That is the way the matter was left. So, to that extent, there were efforts made to settle this case and I would also point out to the Commission that during the course of the hearing I offered to arbitrate the case with the Southwestern Lines in any fashion that they wished to do it in order to avoid putting the matter up to the Commission and retaining to some extent at least jurisdiction over a thing that we should take care of ourselves and that offer was refused. The reason given for the refusal was that I would not announce before they signified whether or not they would arbitrate what I wanted. I could not see any point in announcing that. At that time, as a matter of fact, I did not know and I preferred to see what the record would show as to what we wanted. But it fell through.

Commissioner Meyer: You wanted increased division, did not you?

[fol. 1680] Mr. Towner: Exactly, yes, sir, and we agreed if the Southwestern Lines would do it to submit the question

whether or not we wanted increased division to arbitration; that is, of course, if that action were satisfactory to the Commission. Everything we did were subject to your Honors' approval of course. It suggested to me a means of settling the case without going ahead with the record and bringing the case here.

Commissioner Meyer: Could not you have suggested as to why you ought to get these increased divisions at that time?

Mr. Towner: No, not at that time. At that time, Mr. Commissioner Meyer, the record was not made and I did not care to be in the position of announcing beforehand that I thought we were entitled to these things, to this that and the other thing, when the evidence put in might lead me to the conclusion that something else was desired.

Commissioner Meyer: As far as you are concerned, if you think you ought to get increased divisions, you should be able to point out where you would get them.

Mr. Towner: That would be the evidence before the arbitration and was the evidence in the record. It covers all these matters.

Now, there are a number of objections to the report that were outlined in the exceptions that we filed. An answer was filed to the exceptions and it is of course impossible to deal with all these matters in the limited time that we have here and perhaps it is not necessary anyway; some of them are not so important. I should say this before I start, however, before starting to talk about these exceptions: that when we finally came to the Commission in the form of briefs, or a suggestion that these divisions as between the Western Trunk Lines and the Southwestern Lines be put on a straight mileage pro rate with the possible exception of certain traffic that moves through Western traffic line territory to and from Eastern territory—I would say [fol. 1681] that with that exception I can see no reason why a mileage pro rate is not

Commissioner Eastman: We have this Western Trunk Line class rate at the present time. That has already been determined for the Southwestern and we really determined what divisions you ought to have; naturally we know what the relative levels of the local rates of each territory should be.

Mr. Towner: The local class rates?

Commissioner Eastman: Yes; we have done that in the Southwest. Assuming we do that in Western Trunk Line territory, would it not be then logical to divide the rates by approximate rate pro rates?

Mr. Towner: I did not know that that method of fixing the divisions was advocated in the West or as affecting the Southwestern Lines in this case.

Commissioner Eastman: On the basis of the present class rates, I assume.

Mr. Towner: On the basis of the present class rates—I was opposed to that.

Mr. Davis: That is not correct. We just showed the rates in the two territories. We only showed a general rate level.

Mr. Towner: I am not speaking of what the lawyers advocated but what the witnesses did.

At any rate, a great deal of evidence was put in the record on the subject of rate levels North and South. With respect to your suggestion: the only thing that occurs to me immediately would be with respect to that, that it would require a very considerable delay. I take it it would require the withholding of the decision in this case until the Western class rates case was settled and decided and for a further period to see how it worked out.

Commissioner Meyer: Is it possible to determine the basis of the division irrespective of the level of the rates? [fol. 1682] Mr. Towner: It is more or less difficult. We made this offer in our brief and I make it again now: we are not agreeable to any sort of a rate pro rate that is based on the class rates North and South as they existed at the time the record was made, but we will settle the case now with the Southwestern Lines by making a rate pro rate using the rates North and South of the junction—the point I mentioned was a rate pro rate of the revenue, using as factors North and South of the junction the rates now in effect——

Commissioner Eastman (interposing): You mean the local rates North and South?

Mr. Towner: Yes; there was objection to that by the Southwestern Lines at the time the proposal was made because in Western Trunk Line territory we had some local rates on class bases, more, in fact, than they did. We have

class rates, local rates to and from those junctions which, as a matter of fact, are used considerably.

Commissioner Eastman: They are relatively quite low as class rates?

Mr. Towner: Yes, rather low as class rates, but as compared with commodity rates either North or South they are relatively high.

Now, getting back to the exceptions that we filed, if your Honors please: most of these divisions, at least the merchandise per cents have been in effect many years, since the early part of the Nineties. There are two major exceptions to the method of fixing the division: the oil division from Oklahoma as far as Kansas City was fixed in 1916 as a result of arbitration between Western Trunk Lines and Southwestern Trunk Lines, the arbitrator being Mr. Boyd, Chairman of the Western Trunk Line Committee. The testimony in the case shows that this was an arbitration. The lawyers in the case deny that it was an arbitration. I do not know whether the witness is right or whether the lawyers are right, from the Southwestern standpoint, but [fol. 1683] the record shows it was an arbitration. The answer that they make to the statement that it was an arbitration is this: this is from the reply brief of the Southwestern Lines at page 64 and this is the statement: "It is true that on October 6, 1916, the question of divisions was referred by that Committee to Mr. E. B. Boyd, Chairman of the Committee, with authority to establish divisions effective October 1, 1916. While the Missouri-Kansas-Texas, St. Louis-San Francisco, Kansas City Southern, and Mississippi Pacific were represented at one or more of the meetings of Western Trunk Line Committee that preceded the referring of such matters to Mr. Boyd, they were present at such meetings in their capacity as members of the Western Trunk Line Committee, not as Southwestern Lines. The record is clear also that the divisions as fixed by Agent Boyd of the Western Trunk Lines Committee pursuant to the authority conferred upon him were highly satisfactory to the three members of the Southwestern Lines, the Missouri-Kansas-Texas, Frisco, and Kansas City Southern. They were connected (contested), however, by the Rock Island & Santa Fe, also members of the

Western Trunk Lines Committee with lines of their own direct on the oil fields in the Western Trunk Lines territory, and this action by those two lines has actually forced the exception to the so-called arbitration by the Kansas City Southern, the Missouri-Kansas-Texas, and Frisco. The record is clear that there never was a joint consideration or arbitration of the matter in dispute by the representatives of the Western Trunk Lines Committee and the Southwestern Committee. The matter was handled entirely within the Western Trunk Lines Committee and the three Southwestern Lines who were dissatisfied with the decisions as fixed by members of the Western Trunk Line Committee, they were but a small minority of that committee, and it is clear that they were unable, in view of competitive conditions to do other than accept the divisions as [fol. 1684] fixed by the Chairman of the Western Trunk Lines Committee. This instruction, however, was not until ten months after the so-called war, and they were influenced by the ability of the lines operating to St. Louis in making agreement with the Chicago & Eastern Illinois, which accorded them slightly more favorable decision on the oil traffic that via the Kansas City gateway. The result of that arbitration—it was an arbitration; at least I think it was—was that the Western Trunk Lines division for the Oklahoma oil were substantially increased. They are a little less at the present time than the mileage pro rate that I have asked be applied to all of the traffic. They are so close to it that we are satisfied with those divisions. On the other hand, the Southwestern Lines are not satisfied as indicated in their brief.

Commissioner Eastman: That is the most important traffic involved?

Mr. Towner: Yes, I think it is the most important traffic involved and lumber comes next. These divisions, Mr. Eastman, apply only on Oklahoma oil via Kansas City. This agreement did not extend to Arkansas, Louisiana or Texas oil and, from Texas particularly, the oil which has become steadily increased in its movement, moves on the old 35 per cent. The lumber which perhaps is and unquestionably is the next most important commodity also gives to the Western Trunk Lines much higher revenue than they

get on any other traffic except the oil. Part of these divisions, that is to say the division via East St. Louis to territory west of the Mississippi River was fixed by this Commission. That is what the witnesses testified to. To the territory East of the Mississippi and Illinois via St. Louis, these divisions were settled and agreed on between the interests as late as 1924. Those are the last major divisions made on the Western Lines on the one hand and the Southwestern on the other. The oil divisions were [fol. 1685] fixed in 1916. The lumber divisions were fixed in 1924. Now, both of these sets of divisions give the Western Trunk Lines only a trifle less than the mileage pro rate which I have been asking for on the other traffic; the difference, however, is so slight that we are satisfied to have them remain as they are.

Commissioner Eastman: On the bulk of the traffic, you are satisfied?

Mr. Towner: We are satisfied to the extent that Oklahoma oil via Kansas City only and to the extent that lumber is concerned, the divisions are satisfactory to us. That does not apply to any other oil than oil moving via Kansas City.

Mr. Muckley: Is that true to all points?

Mr. Towner: I do not know of any exception. I know it is true to St. Louis. The witnesses who testified testify as I have said with respect to the oil arbitration, that being an arbitration before the Chairman of the Committee which had for its membership not only the Western Trunk Lines but the Southwestern Lines. I do not know what presumption of propriety attaches to that arbitration, but it should be presumed that it took into consideration all those factors that should be taken into consideration in fixing these divisions and presumptively, at least, they are right.

Commissioner Taylor: Does this same principle governing the *the* lumber and oil if made general, would that be satisfactory to you?

Mr. Towner: Decidedly so. It would mean less to us than I have asked for and what I think we are honestly entitled to, on the mileage pro rate, but it is so close to that figure that it would be agreeable to us.

Commissioner Taylor: Do you think of any reason why they should not apply to all traffic—that was agreed to voluntarily, was it not?

[fol. 1686] Mr. Towner: No, I cannot think of any reason. There is a peculiar thing about the lumber. The witnesses for the majority of the roads hauling the Southwestern lumber to and from St. Louis where most of it moves expressed themselves as being entirely satisfied with present divisional bases on lumber. Their lawyers did not agree with them. The witnesses on the record say the divisions are all right. The lawyers on the record say they are all wrong.

Mr. Larimore: You are mistaken about Kansas City.

Mr. Towner: I did not include Kansas City. Your road attacked the divisions to and from Kansas City on lumber. Here is what the witnesses said: Mr. Layman, of the St. Louis, Southwestern Road, who was in charge, I presume, of the lumber division——

Mr. Outlaw (interposing): That is not exactly correct,

Mr. Towner: Well, I will withdraw that.

Commissioner Meyer: Was the witness duly sworn?

Mr. Towner: Yes.

Commissioner Meyer: Then you may proceed with your argument.

Mr. Towner: He testified at page 5404 of the record that in his opinion the proper basis of division to allow all lines North—let me correct myself, he testifies that the lumber basis via East St. Louis is in his opinion the proper basis of division to allow all lines North of East St. Louis and at page 5951 of the record he expresses himself equally favorable in the matter.

Commissioner Eastman: Are these oil and lumber divisions on a percentage basis,

Mr. Towner: Yes, they are; they vary; I think they vary so much with the length of the haul the destination and the territory although I cannot indicate at this moment or undertake to say verbally what they are.

[fol. 1687] Commissioner Eastman: Could they be applied to all other traffic easily or is it a difficult matter?

Mr. Towner: I do not see why they could not have been applied successfully.

Commissioner Woodlock: The lumber divisions were not based on the mileage per cent.

Mr. Towner: The lumber divisions are on a rate pro rate of the lumber rate North and South, substantially. As I recall the record, and these gentlemen will correct me if I am wrong, but as I recall the record they were formed by combining the rates North and South; the first through rate was substantially the same as the combination of the local rates. When the through rate became lower than the local, substantially the same basis or policy was followed as to dividing the rates. Due to that fact, it is purely accidental that the lumber division approached the mileage pro rate. I do not know what Mr. Boyd took into consideration. I assume he took everything into consideration, including, mileage, and so forth, and as the mileage divisions are less than mileage pro rate there was brought about a rate closely approximating it. The divisions on the two classes of traffic are the major changes made in the last fifteen years in all commodities.

Commissioner Lewis: These two classes are the most important, are they not? What percentage of the tonnage do they represent?

Mr. Towner: I have no segregation of the oil except via Kansas City but all oil or lumber would constitute about 80 per cent of the traffic.

Mr. Outlaw: The oil and lumber traffic is approximately 170 per cent——

Mr. Towner: A little less than 80 per cent.

Commissioner Lewis: There is left here about 30 per cent of the total.

[fol. 1688] Mr. Towner: More than that. These figures I give you include all the oil whereas all the oil that moves under the division is the Oklahoma oil via Kansas City.

Commissioner Lewis: Let us have the percentages eliminating the Oklahoma oil and lumber.

Mr. Towner: Perhaps I can get those figures for you before the close of the session.

Commissioner McManamy: Do you know what percentage of Oklahoma oil moves through other gateways than Kansas City?

Mr. Towner: The major portion moves through Kansas City. I do not know what the percentage division would

be as between the gateways, but the major percentages moves through Kansas City.

In the time I have left, I wanted to bring to the Commission's attention certain specific objections I have to this report.

First, the Examiner finds on Sheet 10 that 70 per cent of the traffic moves to or through the State of Illinois where traffic density is greater than anywhere else. I have no quarrel with the 70 per cent figure. I assume it is correct. The statement is made and is based upon figures in the record so, I assume it is correct. But, what has been done is this: they have taken all of the Western traffic or rather all of the Western Trunk Line territory and considered it in the aggregate. Look at the map. It will indicate that via Kansas City a very considerable portion of the territory is served by the Western Trunk Lines that never gets into Illinois. For example: the territory in Missouri gets practically all of the Iowa territory and, I made the general statement that a lot of this traffic did not go through Illinois, and I was criticised for that in the reply brief when they cited that about six cars of the Kansas City traffic goes through there. But it is safe to say that practically all of the traffic in Missouri and Iowa and Minnesota, at least on the lines that would make the rate, [fol. 1689] does not move through Illinois at all. I submit, in fixing the divisions, taking into consideration the density North and South, and the average haul, that consideration should be given to the fact that the Kansas City lines do not operate as a matter of fact through a higher density North of Kansas City than they do south. There is that in the record.

Now, if density is to be the controlling thing, certainly on traffic via Kansas City North, there is nothing in the density at all that justifies anything other than the mileage pro rate basis. Via St. Louis practically all of the traffic moves to Illinois or Wisconsin which are the two highest density States, but the average haul, as I recall it, on all of the traffic that moves in October and June of which statistics were made moves via St. Louis, moves an average of 271 miles which is 8 miles less than the short line distance from St. Louis to Chicago. The point of the argument was this: that if Kansas City where there is no fea-

ture, no consideration that justifies anything else than a mileage pro rate, the lines that reach Kansas City and serve this territory are entitled to the advantage of their situation toward the lines extending from Kansas City to Minnesota via St. Louis for you have a set of lines that serve Illinois—for instance, the Burlington Line in particular. There are other lines as well with which the Commission of course is familiar. Perhaps they handle the bulk of this traffic via East St. Louis, but these roads, with respect to all of the traffic handled only haul 271 miles North as against 540 miles South. Any element that these roads find entering into their figures because of higher density in Illinois is overcome by the exceedingly short haul. Take in Texas, for example, on this traffic haul to Chicago to the other end of the State: we get 20 per cent which is less than most of the minimums which apply. We get less than that.

[fol. 1690] Commissioner Taylor: Your 80 per cent covered traffic via Kansas City or crossings?

Mr. Towner: It would cover all the other crossings.

Commissioner Taylor: So, the traffic is material. Do the divisions cover it in both directions?

Mr. Towner: In both directions.

Commissioner Taylor: So, we are concerned only with respect to about 20 per cent of the traffic?

Mr. Towner: The traffic to be considered is more than that for this reason: that the oil on which the divisions had been fixed was only Oklahoma oil moving via Kansas City. There is a considerable volume of oil that moves to Texas, Arkansas and Louisiana via both Kansas City and St. Louis.

Commissioner Towner: And

Mr. Taylor: And a

Commissioner Taylor: Is that satisfactory to Kansas City or not?

Mr. Towner: It is not.

Commissioner Towner: It is not?

Mr. Towner: It is only via Kansas City that the division is satisfactory on the Oklahoma oil only.

I submit to the Commission that separate consideration should be given this contention: the Southwestern Lines

have been advocating, and the Examiner has followed them, in holding that the whole thing should be grouped as a whole. He has gone to work and taken the whole territory. It may be true that seventy per cent of the traffic sometimes moves into Illinois, but when you consider the gateways separately and as they should be considered; that situation is completely answered and I should and do submit that that is the way the thing should be considered.

Commissioner Eastman: Are you asking for any consideration on account of financial disability?

[fol. 1691] Mr. Towner: Yes, sir, I am. On the density figures.

Commissioner Meyer: You will watch your time and reserve whatever you wish to reserve for your answer.

Mr. Towner: I have been pretty thoroughly burned up in the reply brief and I do not know that we could or that I could treat it in any oral argument that might be made.

Commissioner Meyer: Perhaps that is the reason we should hear your argument.

Mr. Towner: I think, though, that I will go right ahead to the extent that I am able to cover the territory. Whether I can cover the whole matter in my oral argument or not I do not know, but I have submitted to you quite a brief. There is a good deal of material in the briefs that is not worth reading——

Commissioner Myer (interposing): You mean the brief on the other side, of course?

Mr. Towner: Oh, certainly. You will find, if you take the good material, that everything is covered.

I did not want to talk about density, however, because I have an offer to make with respect to that: the Examiner has followed and used the State density figures. Perhaps he is right. I do not think he is. I favor the method of using the density of the lines of respondent but the point is that the figures apply to all carriers, but the State figures should be taken. He has found the density in Western Trunk Line territory is greater than in Southwestern and by a substantial percentage, including Illinois. He concludes with respect to that point, however, by finding that in the near future (if) the present ratio increase of den-

sity in Southwestern territory continues the density will be on a parity. The last figures put in the record were for individual lines as of 1925.

[fol. 1692] There were no State figures available at the time the hearing was closed for 1925 and there were none for 1926. I was uncertain of the propriety of doing it, but I put in my exceptions the statement of figures of 1925 and of 1926 density and added to it a statement; I intended to ask the Commission if I might submit those figures. They are standard and I did it so that I could give my adverseries notice of what I intended to do. We have prepared figures—Mr. Parsons who prepared them is prepared to ans-er any questions that may be asked with respect to them. The figures were gotten up by a Bureau to which my opponent belongs as well as my own line, and inasmuch as it related to such important matter I thought the Commission might desire to make it part of the record and, while I do not understand it is proper to submit this in argument, I have the figures and I assume that Mr. Outlaw and Mr. Muckley will have no objection. I put the statement regarding them in the exceptions for that reason.

Mr. Muckley: I will continue any objection that I have to additional evidence for 1926 alone unless we have the evidence similarly for 1927. I do not want the record to show any particular change of one year. If we open the case we should look into all the conditions, such as the consideration of the flood catastrophes of the Southwest and I would like that considered.

Mr. Towner: We would have been glad to put in the 1927 figures but I was advised that they were not available.

Commissioner Meyer: We will give consideration to these suggestions. For the present, please, proceed with the argument.

Commissioner Eastman: Can the parties agree that the Commission can refer to reports on file filed by the various carriers up to date instead of depending on the old records?

Mr. Towner: As far as I am concerned I am willing to make that stipulation that the annual reports of all the lines [fol. 1693] may be referred to by the Commission for such information as it wishes to get from them.

Commissioner Meyer: Do you agree to that, Mr. Outlaw?

Mr. Outlaw: It places me in an embarrassing position. Of course when you refer to these matters often use is made of them and they are used in such a manner that, without explanation, they might be susceptible of different interpretations. When you can explain the use to be made of them and what interpretation is to be made of the statements, it is a different matter. Therefore I dislike to do it but as long as the Commission asks for it I will agree to that.

Commissioner Meyer: Such reference may be made to them?

Mr. Outlaw: Under the circumstances, yes.

Mr. Towner: My time is rather short. In my remaining six or seven minutes there are a few things I want to refer to:

First, there is the question of the absorptions and other incidental expense of the Western Trunk Lines and this traffic, an important item. We put in exhibits showing our expense on this traffic as well as the Southwestern Lines expenses. We had a check of all the traffic that moved in June, 1924, and the Southwestern Lines had a similar check made for October, 1924. We took our figures in June, 1924 and showed only the terminal expenses—now, I do not mean by that, general expense, but I mean out of pocket payments that we made on that. That is, we took all the maximum haul of 271 miles North as against 540-some miles South, and the result was this: that of all the cars handled between St. Louis and Chicago in that month, for these four lines, the lines North of East St. Louis paid out $14,400 and the Southwestern Lines $6,475, slightly less than 50 per cent. We subsequently put in a more detailed statement of these facts and carried it out a little further with regard to these figures and included 1292 cars. There was some sugges- [fol. 1694] tion that possibly the switching at Chicago was accrued on the lines of other respondents but out of the total of absorptions, we had over $9500 that was paid to purely terminal switching lines in Chicago. That means that we got 20 per cent North of East St. Louis on the Texas oil, for instance, to Chicago, which is less than the minimum of 25 per cent uniformly applied in the territory. We hauled a maximum distance of 278 miles to Chicago and absorbed this amount both at Chicago and East St. Louis.

There is nothing left after you do that. That is exactly the situation. I do not know any way to get out of it. The Commission is familiar with the terminal facilities at Chicago. The only certain thing about it is that there is no profit.

Commissioner Taylor: These figures were 278 North of St. Louis and 540 South?

Mr. Towner: Something like that.

The other thing I wish to refer to in the few moments I have left was the conclusion of the Examiner with respect to the financial situation. That is the thing that Mr. Commissioner Eastman referred to. The Examiner finds a number of things. He first refers to the decision of this Commission in the revenues in Western districts, 113 I. C. C., at Sheet 22, and refers to that statement where it was said that the book values of Southwestern regions are much less concervative than those of Central West and Western regions. He adds his own comment whether this may be fairly used against the defendant here. That is all he says. At the bottom of the sheet, 22, he says: "If we select the carriers that would be most benefitted and those that would be most injured by the readjustment, or in other words those that perform most of the transportation, namely the principal Chicago-St. Louis-Kansas City lines, on the one hand, and the prominent Southwestern lines on the other, [fol.1695] the disparity between the financial strength of the two groups as judged by the rates of return, is rather substantial." Then he appends a table which shows that to be the truth. His conclusion with respect to that feature however is this: "Consideration of groups or averages, are often misleading. The revenue which a mileage pro rate would turn to the Western Trunk Lines would go to the Chicago, Burlington & Quincy, Illinois Central and Wabash perhaps as much as it would to the weaker lines, namely the Chicago & Alton, the Chicago & Eastern Illinois, Great Western and Chicago, Milwaukee & St. Paul. This situation argues against a change in divisions for financial reasons. Transfusion of revenue would be undertaken for strengthening weak carriers only in extreme case and only as a last resort." I do not quite follow that reasoning. As a matter of fact, as the Commission knows and the

public records show in your New England division case all the roads up there were not earning the same amount of money. It was the group as a whole that was considered by your Honors and that is all I ask either the Examiner or the Commission to do here and, when you consider the group as a whole, there is no question where the financial strength lies. There are three lines in the Northwest under what might be termined the neutral classification rate.

Commissioner Taylor: Just what does that neutrality mean? Does it mean that the Rock Island wants to hold just what it has or is indifferent?

Mr. Towner: The Rock Island has not said anything in this case. They entered an appearance at the first hearing and—I see the light has flashed.

I have said all I want to say anyway.

There are a great many matters that the Commission should give consideration to and that I would like to call your attention to particularly, but all I ask you to do is to [fol. 1696] give attention to the very able brief that has been filed.

Commissioner Taylor: You allowed 20 per cent beyond St. Louis. On a strict pro rate you would have 34 per cent?

Mr. Towner: If 34 per cent is the right figure, that is true.

Commissioner Taylor: You think you ought to have 34 per cent?

Mr. Towner: Whatever the mileage basis is.

Mr. Outlaw: You said Texas mileage was 534——

Mr. Towner (interposing): I am not sure that I said that——

Mr. Outlaw (interposing): Texas mileage on Texas oil is greater than 540 miles.

Commissioner Taylor: He stated that merely as an average.

Commissioner Meyer: Now, Mr. Outlaw.

Argument of Mr. R. B. Outlaw on Behalf of the Southwestern Lines

Mr. Outlaw: I appear on behalf of the Southwestern Lines. Mr. Towner in his opening statement made a point against the finding of the Examiner that this was a general

investigation and the finding was apparently wrong, merely that there was nothing in the record to justify large transferenee of revenue from the Southwestern Lines to the Western Trunk Lines and what have you to indicate that there is some difference between a general investigation and a complaint case. I think the Supreme Court very definitely in the Orient division case held that the nature of a general investigation could in no way be altered by the fact that it was a general investigation and not a complaint case and in that proceeding where there were hundreds of thousands of dollars, and in this case where are many millions of dollars involved, the rights of those parties should not be violated and sums transferred except on sound evidence it [fol. 1697] is justified, and that is in the record. That is the foundation of the Examiner's findings. There is nothing in the record here justifying the transferrence of money.

Commissioner Meyer: You have missed the point, I think. Are we permitted to stop short until we are able to say whether they are right or wrong?

Mr. Outlaw: I think your duty is complied with. There is a comprehensive record and the finding of the Examiner based on that record.

Commissioner Meyer: If this record is as complete as it should be should we not conclude it by finding that the divisions are right or wrong?

Mr. Outlaw: I think as to that it is merely a question of verbiage. The statement of the Examiner finds that the records justify the divisions as they are today. I think it is correct and supported by the record and I will endeavor to show you in the limited time we have why we think he is right.

Commissioner Meyer: He used the form that we are all familiar with and which this Commission sometimes adopts: "The plaintiff has not borne the burden of proof."

Mr. Outlaw: Whether the plaintiff has borne the burden of proof or not, the fact is that both parties have put in a very comprehensive record, a large number of exhibits, and have briefed the case. I think the findings of the Examiner are fully supported by the record.

Commissioner Meyer: Your contention therefore would be that these findings might well be modified to say instead

"Not shown to be unreasonable" to say that "they are shown to be reasonable."

Mr. Outlaw: That they are shown to be reasonable and the evidence will support such a finding.

The divisions between the Western Trunk Lines territory [fol. 1698] and the Southwestern territory, through the gateways involved here, as stated by Mr. Towner, varied in a number of cases. They are complex. They are many and it is almost impossible within the scope allotted to us to discuss these individual divisions. The only one he referred to was the 30-70 and the 20-80, North and South, Kansas City and St. Louis, respectively on traffic from common point territory to the Chicago group. However, it has been our contention that the aggregate result of the divisions should be considered and that I would like to put before you:

In this record a study of all of the traffic interchanged for June, 1924 was made by the Western Trunk Lines. A similar study of all the traffic interchanged, during October, 1924, was made by the Southwestern Lines. These exhibits have been consulted and at page 78 of the record, 78 of the Southwestern Lines brief, and show that upon all carload traffic the ratio of ton-mile earnings to Southwestern territory of the Western Lines is 112.4 per cent and that includes traffic that moves on the merchandise per cent and specific commodity percentage.

Commissioner Eastman: Car mileage earnings?

Mr. Outlaw: No, ton-mile.

Commissioner Eastman: What is the average length of haul in both cases?

Mr. Outlaw: The length of haul in both cases is not very greatly different. The average haul for the consolidated two months in Western traffic line territory was 367.8 and in Southwestern territory 452.3 miles in the average haul. On all that traffic there was a difference of 12 per cent in the earnings in favor of the Southwestern Lines.

Mr. Towner: That is not correct; when you take the difference, it is 24 per cent.

[fol. 1699] Mr. Outlaw: The Southwestern Lines earnings were 112 per cent in cases of a mileage pro rate and the ratio of earnings to a straight mileage pro rate was roughly 131 per cent, that is, there was a constructive mileage of

131 per cent for each one mile North. That difference, the Southwestern Lines contend, is not sufficient in view of the actual difference in the two territories.

Mr. Towner has asked for a mileage pro rate but he has set forth no reason for comparison of territory as to why that should be. We will endeavor to do it and show that the present difference in Southwestern Lines is not sufficient.

Now, that 112 per cent in the case of mileage pro rate as effecting Southwestern traffic, covers all traffic. On the lumber traffic, the mileage pro rate is only 103 per cent and on the oil traffic the mileage pro rate is only 106 per cent. As I stated during Mr. Towner's argument, the percentage of ton-mile on oil and lumber to other traffic is 170 per cent, so, on practically the greater part of the traffic the earnings of Western Trunk Lines are approaching the mileage pro rate. Mr. Towner endeavored to make the point that the earnings upon the merchandise traffic be divided on merchandise percentage, be measured by the oil and lumber figures because they represented the voluntary action of the Southwestern Lines or were the result of arbitration. I do not think that is true. He spoke of arbitration, of oil arbitration. We rely on the record there. The facts are that the reference to Mr. Boyd, Chairman of the Western *Trunk Lines Committee, as an arbitrator, was by the West*ern Trunk Lines and not by the two lines. As he pointed, there were three Southwestern Lines but they were present in the capacity of Southwestern Lines and vigorously opposed the percentages proposed by Mr. Boyd and in fact it was a year after that arbitration before that was made effective and, through comeptitive influence, the Santa Fe [fol. 1700] and the Rock Island and the other lines were forced in. We earnestly submit that that was not an arbitration.

Commissioner McManamy: The Examiner's report shows on all other carload freight the ton-mile earnings on Southwestern Lines are more than double that of the Western Trunk Lines to and from every State except Louisiana. Do your figures correspond with those? Is the reason yours are different due to the relative volume of traffic?

Mr. Outlaw: The figures in appendix No. 1 are for June, 1924. The figures that I give you are consolidated, June and October, 1924.

Commissioner McManamy: Are they on a comparable basis?

Mr. Outlaw: I think they are on a comparable basis and that slight difference can be explained.

Commissioner McManamy: I thought the difference was substantial.

Mr. Outlaw: Sir?

Commissioner McManamy: I say I thought that the difference was substantial instead of slight, as you say it is.

Mr. Outlaw: What was the figure that you referred to?

Commissioner McManamy: I was referring to the figures as applied to and from Missouri to Western Trunk Line divisions per ton mile and those figures show that the carload figure is 13.66 while the Southwestern gets 31.01.

Mr. Outlaw: Missouri is a short haul territory.

Commissioner McManamy: That applies to all States except Louisiana.

Mr. Outlaw: I think that the matter that the Examiner shows is the same that we show. I think you will find the same result. On all other material except oil and lumber the percentage is higher. You cannot change those per cents without giving consideration to oil and lumber which were considered as inadequate. We are rather willing that the interchange of the aggregate be considered. We be-
[fol. 1701] lieve it is probably a little lower for the Southwestern Lines and is proper. We do not wish, however, to go into that any too deeply and we are willing to let them remain as they are. You cannot change the one volume of freight unless a corresponding change be made in oil and lumber.

Commissioner McManamy: Whatever changes are made would have to leave the situation as it is now?

Mr. Outlaw: That is our position and whatever changes are made would have to leave the revenue the same or accord the Southwestern Lines a little more.

Mr. Towner: Would the Rock Island, and the Santa Fe desire an increase on the division of Oklahoma oil to Kansas City?

Mr. Outlaw: We are in the same position that you are. We have made the agreement and are willing to stand by it.

Mr. Towner: You would not desire the increase for those roads?

Mr. Outlaw: I think those roads were not a party to that agreement. Certainly as far as the Missouri Pacific, the Rock Island and the Santa Fe is concerned, that repudiates the agreement.

Mr. Towner: The agreement was the present division on oil from Oklahoma via Kansas City would remain as is on all the roads.

Mr. Outlaw: On the basis of the 14 per cent increase on the merchandise per cents. Possibly the principal injunction to the Commission in establishing the division contained in paragraph 6 of Section 15 of the Interstate Commerce Act is that they must look at the respective amounts of revenue needed by the carriers to pay operating expenses, taxes, and so forth, and the return on railroad property to be held and used in the service of transportation. That requirement will require first a study of the density of traffic on any two groups. First, because in the absence of any markedly different operating conditions in the territory or traffic conditions in the territory the cost and return and all the other statistics of the railroad will be al- [fol. 1702] most directly reflected by the density of the traffic of the two groups. The Southwestern lines have compared the density of traffic with the Southwestern States where we say that the average density of the Western Trunk Lines States if 184.6 of that of the four Southwestern States, and 174.3 of that of the Southwestern States to, from or through which the Southwestern traffic flows, and that inasmuch as the record shows that 76.83 per cent of the traffic interchanged between the Southwestern Lines and the Western Trunk Lines during the month of June, 1924, originated in, was destined to or passed through the State of Illinois, and that for the month of October, 1924, 66.9 per cent of the interchanged traffic was traffic to, from or through Illinois, a comparison of the respective traffic densities of the Southwestern States passes the States of Illinois, Iowa and Northern Missouri, is pertinent. Northern Missouri and Iowa are used in this comparison because practically all of the Illinois traffic via Kansas City would pass through either or both of those States. For the same three-year period under consideration the traffic density of the three Western Trunk Line states named was 206.9 of that of the Southwestern States of Arkansas, Oklahoma, Louisiana, Texas and Southern Missouri.

Commissioner Eastman: Why should Illinois be considered a part of Northwestern Trunk Line territory?

Mr. Outlaw: We considered only that part in there (indicating on the map).

Commissioner Eastman: The official classification reads, the whole of Illinois.

Mr. Outlaw: I think you have to consider the State of Illinois in this question, particularly as concerns commodities moving from Fort Worth, Fort Worth, Texas to St. Louis, and from Fort Worth to Illinois. The rate is not [fol. 1703] an official rate there. It is published over all the Southwestern Lines and Western Trunk Lines and the condition is present on the Western Lines and Eastern Lines.

Commissioner Eastman: Why not make a separation and put Illinois in one catagory and the rest in another?

Mr. Outlaw: If you could work it out practically we would still be where we are. The point is we are considering everything in the aggregate and giving Illinois its proper place in that aggregate. We followed Mr. Towner's suggestion we would apply the whole condition to the whole traffic and that, I think, should not be. In view of the fact that three-fourths of the traffic is through, to or from Illinois, the Illinois condition would be encountered by most of the traffic and we would probably be entitled to far greater increases from that traffic than we would be required to give increases to Western traffic lines on the relatively inconsequential traffic to other points. We think it far more sensible to consider the group as a whole.

Commissioner Eastman: You say three-quarters of the traffic. Is that ton-miles or what?

Mr. Outlaw: That is on the number of cars handled. From these two interchanged statements we could not get the weight but we counted the cars on them and found for January, 1924, 76.83 per cent of all the traffic was to, through or from the State of Illinois.

Commissioner Eastman: 76.83 per cent?

Mr. Outlaw: Yes. It was either originated in Illinois, reached Illinois, was delivered in Illinois——

Commissioner Eastman (interposing): Even if only a few miles, even if it went only a few miles through Illinois?

Mr. Outlaw: None of it could go only a few miles through Illinois. The only interchange point would be at St. Louis.

Commissioner Eastman: How about this Nemo traffic? Is there not traffic interchanged at Nemo?

[fol. 1704] Mr. Outlaw: That would traverse a substantial part of Illinois if there were any such interchange. That is only an interchange between the Santa Fe and the Minneapolis & St. Paul.

Commissioner Eastman: Is not the fair way to figure this out on a basis of car miles instead of a basis of cars?

Mr. Outlaw: I think it would be all right and would show the same result. We give it as 76.83 and 66.9 in October and June, because it was the only way that we could get at it. We counted the cars relatively and I think if we did it the other way the same showing would be made.

Commissioner Eastman: You have no way of ascertaining that in the record?

Mr. Outlaw: No, there is no way of ascertaining that in the record but we could count the cars and weight that. Now, that is that.

Now, on the basis that the Southwestern Lines use in arriving at their density for an average of the three years, 1922 to 1924, inclusive, the density of the Western Trunk Line group was 184.6 of the Southwestern group, composed wholly of the strictly Southwestern States, Arkansas, Oklahoma and Louisiana and Texas, and 174.3 of a Southwestern group to, through or from which the traffic would flow and to the difference in these groups we added Kansas although that is not a Southwestern State as you defined in the order of the Commission, yet a very great volume of the traffic will flow through Kansas and encounter the conditions prevalent in that State such as the traffic via Santa Fe and the Rock Island in the Southwestern which practically all traverses the State of Kansas. In view of these large percentages of Illinois traffic, at the suggestion of the Examiner, a further comparison of density was made showing only Illinois, Missouri and Iowa as one group and the Southwestern territory as the other and the average [fol. 1705] density was 206.9 of the density of the Southwestern cases.

Commissioner Eastman: What was it eliminating Illinois?

Mr. Outlaw: If you eliminate Illinois from the density, you eliminate all the traffic.

Commissioner Eastman: Supposing you do. What is the result?

Mr. Outlaw: I have not had that before me. I think the density of the Western Trunk Line States would be in excess of the *of the* Southwestern States but the spread would be nearer our position in view of the fact that the traffic in Illinois is the pivotal point in the case and you could not exclude it from the case.

Several criticisms were made of our groupings, as constructed. We used all the Class 1 railroads of both groups but the Western Trunk Lines criticized us for using several of those roads. We showed that the elimination of those would actually increase the density in Western traffic, Western Trunk Line territory, because they had density lower than the average. We also said that by using those roads we used the heavy ore roads——

Mr Towner (interposing): I apologized for that.

Mr. Outlaw: I did not know that.

Commissioner Meyer: The Lake Superior is an ore road; the *T*reen Bay & the Western is not.

Mr. Outlaw: No, it is not. It is in Wisconsin.

Commissioner Eastman: Is there any way of eliminating from Western Trunk Line traffic the density of the Kansas City (Santa Fe), the Missouri Pacific and the Rock Island, the lines that do not want any increase?

Mr. Larrimore: How is that?

Mr. Outlaw: There would be, because the density is maintained; it is possibly available in the record but I am not certain it is.

Mr. Towner: I do not think the individual roads are in; I think our figures were about aggregates and I certainly believe they are accurate.

[fol. 1706] Mr. Outlaw: It could be done, but I do not think it is here in the record.

Mr. Towner: It could be done. We put in exhibits showing the density by States on lines of each of the individual respondents.

Mr. Outlaw: I believe there was such an exhibit made by Mr. Parsons. Of course our answer to such a suggestion is, Mr. Commissioner, that whether the issues or where the issues have been defined in this case, the controversy here is as between group and group and the Atchison, Topeka & Santa Fe is just as much a part of the Western Trunk Lines

group as any other road and the condition on that line goes to make the condition of that territory as much as does the condition on other lines and goes to affect our condition, possibly a little more favorably than the weaker road would do but that is no reason to throw out the State as a whole from consideration.

Commissioner Eastman: There is nothing, nothing in the order of the Commission that compels the Commission to put it in that way? Is there?

Mr. Outlaw: Why, I think so, your Honor. You have instituted an investigation of all divisions on all traffic from all lines originating on all lines within two geographical groups as defined by you.

Commissioner Eastman: Is there any reason why we should not arrive at the conclusion providing for an increase of the division of the Santa Fe and the North Trunk lines even though there is no justification for an increase, for example, on the Chicago Great Western?

Mr. Outlaw: On this traffic, I do not quite understand you. How would it be applied? The Santa Fe would get all the business if you did that at the gateway and so would the other lines his divisions would not be increased.

[fol. 1707] Commissioner Eastman: Apart from the competitive situation of that kind, such as you mentioned, which would compel a fixing of an equality basis, how about the instances where we find a situation which is not involved in such competition?

Mr. Outlaw: If that is the thing you are seeking to do, Mr. Commissioner, I must firmly fear that this procedure is not the one drawn to do it, nor the investigation instituted along the proper lines. If you have in mind only relief to the Chicago Great Western, the Chicago Northwestern, the Missouri (Minneapolis) and St. Louis and weaker lines in Western Trunk Line territory, the thing to be done would not be done through an investigation of all divisions of all traffic within three or two groups but through an investigation of the division between those lines on which that traffic moves.

Commissioner Eastman: There is nothing in the issues that would prevent us from finding, if the record so shows, that certain divisions are right and that certain divisions are wrong and ought to be corrected.

Mr. Outlaw: There is nothing in that. I doubt whether the record would justify a finding that certain divisions by the Rock Island are wrong and the same divisions by another road in a stated haul were right.

Commissioner Eastman: The Supreme Court says that we can take into consideration the financial condition of the carriers.

Mr. Outlaw: I think that may be done, but you would do it in a proceeding of another character and if that were done you would have before you not merely the divisions of the Southwestern Lines but the divisions with the Trans-Missouri Lines and the Northern Lines and the Eastern and the Southern connections, and all lines in the United States with which they are connected, and there would be a study of the traffic involved in that just as you did in the [fol. 1708] Orient and other cases like it. If, however, your proceeding takes another form, whether you call it a general investigation or a complaint case, or what, and if the substance of that proceeding is of the sense that the Illinois Central, the Chicago Burlington & Quincy, the Atchison, Topeka & Santa Fe and the Rock Island are here before you as well as the others asking for an increased revenue at the gateway, Kansas City and St. Louis, out of the revenues of the Southwestern Lines, then I think in justice and equity the other thing you can consider is the average condition in the Western Trunk Line group and on the Chicago, Burlington & Quincy, the Atchison, Topeka & Santa Fe, the Rock Island and the Illinois Central, as well as the other lines. That should be contrasted with the average conditions on all lines in the other group, both strong and weak, looking at the same trunk lines in the Southwest; that is quite obvious. There is the case of the Oriental Lines. The Southwestern Lines, with no help from the Western Lines, are contributing increased divisions to those, perhaps far out of proportion to what those divisions would be measured purely by traffic. If such a burden has to be carried by another territory, let it be carried by the lines in that territory. But that is not the proceeding before this Commission. If, as a matter of fact, there is any increase in the division, the Atchison, Topeka & Santa Fe, the Chicago, Burlington & Quincy, the Illinois Central, will profit just as much if not more from this increase. The group has to be considered.

Now, we pointed out that in that connection it was not exactly what it should be. We intended to speak of it. For the month of June, 1924, the interchange figures prepared by the Western Trunk Lines themselves show that the heaviest interchange line with the Southwestern Lines was the Illinois Central and there were 2,902 cars interchanged between that line and the Southwestern Lines and the Chicago Great Western, one of the most active of the [fol. 1709] plaintiffs in this case, in the same month, had only 670 cars, less than one-fifth of what went to the Illinois Central. Therefore, we will conclude that the Illinois Central will profit five to one from anything that you do. If you make this group a group case, then that road ought to be in it.

Commissioner Taylor: Your position under this procedure is that no matter what the facts are we cannot reach a conclusion to transfer one set of revenues from one line to another?

Mr. Outlaw: I hardly say that. You find the condition from the facts, from actual traffic and other reasons where that would justify the transfer.

Commissioner Taylor: I know that.

Mr. Outlaw: The Illinois Central division——

Commissioner Taylor (interposing): But even if it was a situation of that kind, you would not agree with the mileage basis or the basis of the division from revenue of oil and lumber from Kansas City was the proper basis on which to divide all the traffic?

Mr. Outlaw: Oh, no, sir. Our position is that the present division of revenue in the aggregate is such that we are willing it be continued. We think it is not quite fair to us but we are willing to let the case stop where it started.

Commissioner Taylor: You do not think the division on oil and lumber via Kansas City should be accepted as a basis?

Mr. Outlaw: I think they carry absolutely no presumption of reasonableness.

Now, one further remark in connection with the density of traffic and the question of the weight that must be given to the whole density. In the original brief and argument today, Mr. Towner refers to the shortness of the haul in Illinois. In that connection we are prepared to show that the weighted average density between representative South-

western and Western Trunk Line points that is set forth [fol. 1710] at page 21 of the Southwestern Lines brief and also in the Examiner's report—I have not the page of that—is correct. Substantially what we did was to take the Santa Fe as a representative line from Fort Worth to Kansas City and I think that is truely representative. It is not the heaviest density nor the lightest. We took the system mileage of each State and weighted that according to the length of the haul in that State and arrived at a figure giving the average density. Similarly comparisons were made and I won't stop at this time to discuss them. There is nothing to this point of shortness of haul in Illinois. If we were to weight the haul in Illinois on the majority of traffic, we would find it would increase the percentage of group density. That is largely because of the fact that the majority of traffic is to, through or from Chicago will give its maximum haul through Illinois.

Commissioner Eastman: Would there be difficulty in separating the traffic to the Twin Cities and Iowa that does not go through Illinois?

Mr. Outlaw: I think there would be considerable difficulty on that. A comprehensive of Witness Bolche's exhibit I think will indicate to you that a good part of it goes through the State of Illinois and very little through Iowa; the greater volume of that traffic will go through Illinois. We did make some study when we prepared the reply brief, referring to the shipments, and that is shown in the exhibit and in the brief and I think from the material in the record a very good and clear study could be made and I am confident that it will show a further reason for giving great consideration to the density of the traffic.

Mr. Towner: Do not roads like the Great Western and the Rock Island trunk lines that do not go through nor into Illinois at all?

Mr. Outlaw: They are in competition with the other lines.

Now, I think the traffic density is materially out of pro- [fol. 1711] portion to the slight variance in the ton-mileage earnings according to the mileage and that the relative earnings of the Southwestern Lines are more than justified.

Now, that traffic density is caused by something and the thing that causes it is the industrial, agriculture and manu-

facturing activity of the population and the population itself. An underlying study of that is necessary in order to explain the per cents of the present density and to form any conclusion, if we may, as to the continuance of that relationship, whether it will be increased or decreased or will remain as it is.

Commissioner Eastman: When it comes to operating expense, does traffic density affect anything but overhead? Does it give the road any advantage except in the question of overhead?

Mr. Outlaw: Of course, it does that. It gives it that advantage. I would say off-hand it affected all the accounts, the actual accounts as well as the overhead. It would affect the train accounts. I do not know if you call that overhead. If you have density requiring 100 cars in a train instead of 25 that would be a matter that would have quite an effect on the road.

Commissioner Eastman: It may be an actual disadvantage when it results in congestion.

Mr. Outlaw: When it gets to that point it becomes a disadvantage.

Now, there is one further thought, your Honors, before I leave the question of traffic density and that is prompted by the question of Commissioner Eastman: Traffic density not only affects directly the overhead costs, but also it affects a margin of profit and these margins of profit necessary on which each individual unit of traffic, in order to pay a proper return on an investment similar, must perform. It is obvious that in a small business you have to have a higher earning on each unit of traffic in order to have a [fol. 1712] proper return than you do on a large business. That principle was recognized before your Honors in the New England division case, 66 I. C. C., 197 where, on page 199 you dealt with the question quite extensively.

Commissioner Eastman: Have you anything in here that shows actual results in operating costs?

Mr. Outlaw: Yes. Developing this investment per ton mile, a study of Exhibit K-124, introduced by the Southwestern Lines, shows for a period from 1916 to 1925, excluding the war years of 1918, 1919 and 1920, that the investment of the Western Trunk Line group was per ton mile of line 5.764 cents while a similar investment of the Southwestern group was 7.351 cents. That was including

the Rock Island and Santa Fe. Excluding the Rock Island & Santa Fe, the investment per ton mile for the Western Trunk Lines 5.381 cents and for the Southwestern Trunk Lines 7.424 cents. In the first case it was 127 per cent and the other one 138 per cent greater in the Southwest than in the Western Trunk Lines.

Commissioner Eastman: Those are book figures?

Mr. Outlaw: Those are, of course, the only figures available, the book investment figures and, in connection with this, I refer to the statement Mr. Towner made concerning the criticism which Examiner Disque levelled at the Southwestern Lines to the extent that he referred to the revenue in the Western district where the Commission said that possibly of the ratio investment to valuation in the Southwestern district was not a conservative basis. Mr. Disque concluded that possibly that should not be used against the Southwestern Lines here. Mr. Towner cannot understand the reason. I can. I believe that the Atchison, Topeka & Santa Fe Railroad has quite a conservative relationship of investment to tentative valuation and so has the Rock Island. Both of these lines have very substantial mileage in the Southwest. Therefore I think the Examiner's reasoning in this matter is quite proper.

[fol. 1713] Now, to go back for a moment to this density and the present relationship being more or less assured in the future; let us consider the fact that the population in 1920 per square mile of line was less than a trunk line territory states is 54.7 and in Southwestern territory only 23.8; it is greater in one by 229 per cent. Per mile of line it is 352.3 in Western territory and 296.4 in Southwestern. Now, the Western Trunk Lines say throughout this proceeding that this condition has changed and the Southwest will overtake the Western Trunk Lines. That is absolutely disproved by the figures we have here which show that the relationship today is worse off for the Southwestern Lines than it was in 1880 as compared with 1920. For instance, in 1880, the Western Trunk Lines had a density of population per mile line of 381.2 and the Southwestern Line 601.8. In 1920 that had changed to this extent: that the Western Trunk Line had a population of 370.1, a decrease of but 2.9 per cent, whereas the Southwestern group had a decrease of 310.6 or an actual figure of 48.4 as compared to

the 2.9 per cent and then follow that up and compare the years 1920 with 1900 and it shows an increase in density per mile of line in Western Trunk line territory of 7.3 and further decrease of 13.4 in Southwestern territory. That is accounted for, of course, by the additional railroad building in the Southwest and shows just what we claim is the case; the point of railroad saturation in Western Trunk Line Territory is practically reached. We may expect nothing in the line of major construction operation in the territory East of the Missouri River and therefore we are assured either of the continuance or increase of present population per mile of territory whereas in the Southwest it is still in its pioneer stage and, for the future, there will be increased building and our relationship of our line population will become successively worse, but that is true as evidenced by the cases before the Commission. The extension [fol. 1714] of the Southern (Pacific) Railway, for instance, to the Rio Grande Valley, the building of the Rock Island, of the new construction in the plains territory or country of Texas, all of which shows we may reasonably expect further railroad development in the Southwest and that should of course be given consideration.

I had, your Honors, a number of further comparisons to make regarding the agricultural conditions, showing the greater activity and tonage per acre in Western Trunk Line States and the Southwest and the far greater activity in the Western Trunk Line States in the manufacturing conditions there which accounts for the increased tonnage, but time is so short that I will not go into that. I would like to say in that connection, in connection with the claim that the Southwestern States are rapidly overtaking the Western Trunk Line States that, as to population, the Western Trunk Line States pointed out how fast the population in Southwest territory was catching up with Western Trunk Line states: They showed for instance—I have not got the figures on this at hand, but it is referred to in the brief, and the substance was that within the next twenty years the Southwestern States if the population increased in the same ratio that it had in the last twenty years, it will be hundred years before the population of the Southwestern States equals the population in the Western Trunk Lines group notwithstanding——

Commissioner Eastman (interposing): Including Chicago in that?

Mr. Outlaw: Yes, sir, Chicago and the State of Illinois, and I point out why we cannot exclude it. In connection with manufacturing, the number of people in the industry and the payrolls, we say, relatively, comparing 1921 with 1924, that if the relative increase in the Southwest for each successive 17-year period was as great, as large, and increased in accordance with Western territory, it would be from 51 to 68 years before manufacturing activity in the Southwest would approach the plane it now is on in the West.

[fol. 1715] Commissioner Eastman: You speak of the new lines in the Southwestern territory. Is it not true that in the case of each one of these lines the construction was supported by sworn statements of earnings over a period of five years and a showing of future activity which would result in large and increasing tonnage?

Mr. Outlaw: As the country developed, but per mile of line it would not approach what it was in Western Trunk Line territory. I assume that the Commission will approve no case where the line will fail.

Mr. Muckley intended to speak on the rate level question.

One other thing before I stop: one of the particular things the Commission required to take note of was whether the line originated or terminated or was an intermediary carrier. On every point of traffic in this case, the Southwestern lines are originating or delivering or carrying well on one-third of the traffic.

One other thing, Mr. Towner in some of his comparisons and his brief has said that we might consider only railroads wholly in Western Trunk Line territory or only the respondent line. In answer to that, the Southwestern Lines show from the exhibits in the case that 18,000 cars per year moved to and from non-respondent lines—but my time is up.

Commissioner Meyer: Mr. Muckley:

Argument of Mr. G. H. Muckley on Behalf of the Southwestern Lines

Mr. Muckley: If your Honors please——

Mr. Towner (interposing): May I interrupt to say, your Honors, that the figures on density are shown on Table 2.

Commissioner Meyer: Thank you.

Mr. Muckley: The first thing I would like to do is call attention to the response to Commissioner McManamy's [fol. 1716] question to Mr. Outlaw in connection with Appendix No. 1: there is a statement showing constructive mileage on all other carload freight by East gateways from and to the Southwest. Instead of showing two for one via St. Louis, the percentage is 1.232 and via Kansas City is 1.76. There are figures in that Appendix showing the traffic situation.

Now, Mr. Towner has asked your Honors to accord the Western Trunk Lines a mileage pro rate. I say that a mileage pro rate contemplates that all of the conditions, transportation and otherwise, in the two territories are equal, but the record in this case unquestionably shows that every factor which can be and should be and has been taken into consideration by the Commission shows a difference in conditions in the two territories which is favorable to the Southwestern Lines and requires their divisions to be in excess of the mileage pro rate. About the only condition where there is no similarity is in the physical operating conditions and we claim that even these are less favorable in the Southwest territory.

I have heard Mr. Towner's argument and I have not heard him mention a condition which is adverse to the Western Trunk Lines.

Another important factor to be considered in this matter is the investment of the revenue ton mile which is 138 per cent which is compared with the Western traffic line.

Another important thing in my judgment is the rate level. Now, we have made a study and I think an intensive study of the rate level in the two territories. We have put in some ten or twelve exhibits in the Southwestern Lines case at the Galveston hearing. The Western Trunk Lines I do not believe put in any exhibit that dealt primarily with the rate levels. They did not attack or rebut the rate level exhibits we put in. I do not claim that our exhibits showing comparative rate levels are accurate in every respect but I do claim that they are the best that could be gotten up under the circumstances. We have compared, and if your [fol. 1717] Honors will refer to the back of this brief of the Southwestern Lines for just a moment, I will call your

attention to the last page of the brief, a blueprint showing the results of these studies of the rate levels in the two territories, the studies we made with respect to both class and commodity rates, and both inter and intra state rates. I have not the time to go into the details of the Exhibit but I refer you to the record for the fairness of the basis upon which the exhibits were produced. The Examiner in arriving at a conclusion as to the rate level said that there is no exact conclusion that can be reached, but the safe conclusion is that the rate levels of the Southwestern district exceed that level in trunk line territories and is certainly supported by the record. We have compared not only the class rate levels and commodity levels within the States but we have put in the record comparisons of the decisions of the Commission under the Examiner at Sheet 11 of his proposed report has quoted to your Honors the case as 66 I. C. C. and the case reported at I. C. C. and on Sheet 11 he shows the cost rate for Illinois, established as a result of the Illinois classification, 56 I. C. C., 202, an increase under Interstate rates within Illinois, 60 I. C. C. 92, compared with those of similar distances recently prescribed for the Southwest and consolidated Southwestern cases, 123 I. C. C., 203, the rates in Illinois being, he says, as shown in the lower line and those for the Southwestern in the upper line opposite each distance figure and the tabulation is quite in detail.

We have put in the record a comparison between the Memphis and the Southwestern Central and the Fargo schedule and the Watertown schedule fixed by the Commission as the percentages shown to range, I think, in the Fargo case 137 per cent, the Watertown 150 per cent—anyway those are the percentages, they may be reversed cases——

[fol. 1718] Commissioner Eastman (interposing): Is not it true that the class rates in this territory carry very different traffic than the class rates in these other territories?

Mr. Muckley: I cannot say. There is nothing in the record on that.

Commissioner Eastman: We have said in several cases that the class rates in official territory are not comparable with the rates in Southwestern territory.

Mr. Muckley: You have said in numerous cases that the rates in South territory exceeded the rates in Western territory. In 1918 you referred to the fact that the rate levels

are higher in the Southwestern territory than they are in the Western Trunk Line territory.

Commissioner Eastman: Have you any evidence which shows the average levels of rates and statements of the receipts per car mile comparatively with the average haul in both territories?

Mr. Muckley: I beg your pardon?

Commissioner Eastman: I ask you if you have any evidence which shows the average levels of rates and statements of receipts per car mile in terms of average receipts per ton mile in both territories combined with the average haul?

Mr. Outlaw: Yes. The years 1923 to 1924 the witness Press in Exhibit A-124 goes into that.

Mr. Muckley: The Western Trunk Lines admits that the level is much higher in the Southwest than in the Western Trunk Line territory and they say so at page 103 of the brief. I do not think there is any question about that. What the exact percentage is I do not think the record shows.

I will refer just to one thing which I think is significant and that is the question that was asked Mr. Parsons, the leading witness for the Western Trunk Lines at next to the last hearing. He was asked whether or not, on page 6680, [fol. 1719] of this record, he was asked: "Of course, you concede that in fixing divisions you must take into consideration the traffic density for example and the rate levels of the respective territories."

He answered: "Those are two of the factors to be taken into account."

He was then asked: "Assuming that the rate levels in the Southwest are approximately 140 to 150 per cent of those in Western Trunk Lines and the traffic in Western Trunk Line Territory ranges from about the same amount, 150 per cent of that in Southwestern territory, would you say that this showing on your Exhibit A-242 showed that the Southwestern Lines were receiving too much revenue?"

He answered: "I don't know that I could answer that question off-hand."

He was asked: "You have studied this case for some time?" and he answered "Yes" and he was asked: "And

you do not care to answer that question?" and he replied: "I am not prepared to express an opinion."

He had studied this question and this case for two or three years and he was confronted with the question that showed the conditions in the Southwestern territory were more burdensome than they were in the Western territory and he refused to answer that question. I think that is very significant.

Commissioner Meyer: Your time is up.

Mr. Muckley: I would like to refer to pages 50 and 51 of our opening brief as referred to there, particular the rate of return to the Western Trunk Lines.

Commissioner Meyer: This case is submitted.

Division No. 1 will hear argument calendared to be heard before it.

(Thereupon at 12:09 o'clock p. m. the hearing in the above matter was concluded.)

[fol. 1720] Mr. Moore thereupon stated that Mr. Davis, also counsel for petitioners, would present a witness on behalf of petitioners.

"Mr. Davis: If your Honors please, it might be well for me to state that Mr. Leland's testimony will deal with the allegations contained in Section 22 of our amended petition, wherein we allege that the Interstate Commerce Commission in its order, I. C. C. Docket No. 15234, which is attached to (attacked in) this proceeding, attempted to divide revenue accruing to the Western Trunk Lines east of the Mississippi River and distribute that as between the Western Trunk Lines and the Southwestern Lines, although the Southwestern Trunk Lines had no control over that portion of the revenue or the distribution of that revenue as between the Central Freight Association Lines, which operate east of the Indiana-Illinois State line. In other words, that the joint revenues accruing under the rates from the Central Freight Association territory to destinations (or origins) in Southwest territory are divided on the Mississippi River, and that the division of all revenue east of the Mississippi River is within the hands of the Western Trunk Lines and the C. F. A. Lines."

Witness F. A. LELAND, being produced, sworn and examined as a witness on the part of the petitioners, testified as follows:

I am Chairman of the Southwestern Freight Bureau, which is an organization of the Southwestern Lines in the handling of freight matters. That bureau also handles, to some extent, divisional matters for the Southwestern Lines. In connection with that bureau I have become familiar with the divisions between the Southwestern Lines and the Western Trunk Lines and the C. F. A. Lines. The C. F. A. lines are the Central Freight Association Lines, which are located in the territory generally described by the Commission in its order in this divisions case as the territory [fol. 1721] east of the Illinois-Indiana state line, on and north of the Ohio River and the line formed by the Chesapeake and Ohio, Norfolk and Western and Virginian, between Cincinnati, Ohio, and Norfolk, Virginia. I have prepared a map which shows typical examples of the railroads operating into the State of Illinois, and also the junction points between the C. F. A. Lines or Central Freight Association Lines, and the Western Trunk Lines within Illinois. Petitioners thereupon, through their counsel, offered in evidence the said map as Petitioners' Exhibit No. 23 E. F. M., and the same was received in evidence.

[fol. 1722] Referring to the said map and having in mind the territory which has been mentioned east of the Illinois-Indiana state line and the territory designated as Southwestern Territory, and assuming that a shipment moves from a point on the New York Central to Chicago, thence via the Chicago, Milwaukee & St. Paul Railway Company to Savanna, east of the Mississippi River, thence via the Chicago, Milwaukee & St. Paul Railway to Kansas City, and thence via Southwestern lines to a destination in what is known in this proceeding as Southwestern Territory, the revenue under the joint rates applying to that shipment would be divided as between the Southwestern Lines and the Central Freight Association Lines, or the lines east of the Mississippi River, as follows:

The primary point of interchange between the Southwestern Lines and the Central Freight Association Lines on the traffic mentioned is East St. Louis. The arrangements are made between the Central Freight Association Lines

and the Southwestern Lines direct for dividing the revenue on such shipments through the St. Louis gateway, and when that division has been determined by those two sets of lines, in which the Western Trunk Lines are in no way concerned, then the Eastern Lines—the Central Freight Association Lines have made and had in effect for many years past an arrangement for applying that same division to Mississippi River crossings north of East St. Louis, such as East Hannibal, East Dubuque, Rock Island, Savanna, Illinois, and East Burlington. The rails of the Central Freight Association Lines do not reach the Mississippi River at these north crossings, but they use the Western Trunk Lines from the junctions at Chicago and interior Illinois to reach the Mississippi River crossings, and they have prorating arrangements under which the revenue established by direct contact with the Southwestern Lines at St. Louis is divided on percents. In other words, if 50¢ is the division accruing on a shipment from Cleveland via East St. [fol. 1723] Louis, 50¢ is then the amount that is divided between the lines on the official classification between the Central Freight Association Lines and the Western Trunk Lines east of the Mississippi River. The map is not intended to show all of these routes, but one typical route to each crossing. It shows at East Dubuque the route of the Chicago Great Western, the Michigan Central and the New York Central. It shows at Savanna the route of the Chicago, Milwaukee & St. Paul, and those two Chicago-Eastern Lines. At Davenport and Rock Island it shows routes through Peoria in connection with the Chicago, Rock Island & Pacific Railroad, etc. The revenue to the north Mississippi River crossing, being the same as the revenue to East St. Louis, the west side part of the Western Trunk Lines to the Mississippi River at Kansas City—by west side I mean that portion of the Chicago Great Western, Milwaukee, Rock Island, Wabash, etc., lines west of the Mississippi River. They have an arrangement with the Southwestern Lines for dividing the remainder of the rate accruing on the shipments originating in Eastern Territory. The breaking point is the Mississippi River all the time as between the eastern situation and the Southwestern situation, and finds its starting point at St. Louis. Taking the example of the movement via New York Central through Chicago thence via Chicago, Milwaukee & St. Paul to Savanna

and thence Chicago, Milwaukee & St. Paul to Kansas City, the Southwestern Lines have no voice in determining the amount of revenue which will be accrued to the Milwaukee for the haul from Chicago to Savanna. They have no voice and no concern with it whatever. They have never found it necessary to negotiate with the Central Freight Association Lines, in this case, the New York Central, with reference to the amount of revenue that the Milwaukee shall receive for the haul from Chicago to Savanna. They have never in the past found it necessary to do so because of the fact that the amount of the total rate east of the Mississippi [fol. 1724] River was the same as at St. Louis. The situation which I have described is typical as to the traffic delivered by the Central Freight Association Lines to the Western Trunk Line points and moved thence by the Western Trunk Lines to the Mississippi River crossings north of St. Louis and East St. Louis. It is the standard arrangement by which the Eastern Lines and the eastern portion of the Western Trunk Lines form joint routes to the north Mississippi River crossings through which they equalize the conditions created at St. Louis.

With reference to the total haul from the point of origin on the New York Central to Savanna on the Chicago, Milwaukee & St. Paul, in the above example, the revenue from the haul to the Mississippi River east bank crossing is divided on varying per cents as between the Eastern Lines and the portion of the Western Trunk Lines east of the Mississippi River. The per cents vary according to the origin of the traffic, the length of the Central Freight Association haul (Tr. 93-96). I have prepared a statement giving the corporate names of the Central Freight Association railroads which have interchange arrangements with the eastern portion of the Western Trunk Lines east of the Mississippi River at Chicago, Peoria, Decatur etc., and I have omitted from this statement the names of all official classification lines and lines in the Eastern Territory, and have shown only those which are directly concerned in the negotiations with the Western Trunk Lines as to those divisions; that is, the lines which have direct connections with the Western Trunk Lines at Illinois junctions, either direct or through switching lines, such as the lines serving Chicago and Peoria etc.

Petitioners, through their counsel, offered the said statement in evidence as petitioners' Exhibit 24 E. F. M., and the same was received in evidence, and is in words and figures as follows (Tr. 96-97):

[fol. 1725] The Baltimore and Ohio Railroad Company.
The Baltimore and Ohio Chicago Terminal Railroad Company.
The Chesapeake and Ohio Railway Company.
Chicago and Eastern Illinois Railway Company.
Chicago and Erie Railroad Company.
Chicago & Illinois Midland Railway Company.
Chicago and Illinois Valley Railroad Company.
Chicago, Aurora and Elgin Railroad Company.
Chicago, Indianapolis and Louisville Railway Company.
The Cleveland, Cincinnati, Chicago and St. Louis Railway Company.
Grand Trunk Railway System.
Illinois Terminal Company.
The Michigan Central Railroad Company.
The New York Central Railroad Company.
The New York, Chicago and St. Louis Railway Company.
Peoria and Pekin Union Railway Company.
The Pennsylvania Railroad Company.
Pere Marquette Railway Company.
Toledo, Peoria & Western Railroad.

Cross-examination.

By Mr. Towner:

On traffic between Eastern Territory and the Southwestern Territory the primary division is on the Mississippi River at St. Louis. The revenue accruing to the carriers east of that dividing line for the purposes of this division is eastern revenue and the revenue accruing to the carriers west is western revenue. The revenue east of the Mississippi River and St. Louis is divided up among the carriers handling the traffic in that territory as eastern carriers, and the roads handling the traffic west of the river are presumed to be Western carriers.

Redirect examination.

By Mr. Davis:

That portion of the revenue accruing to the Chicago, Milwaukee & St. Paul Railway in the example which was given

for the haul between Chicago and Savanna goes into the coffers of the Chicago, Milwaukee & St. Paul (Tr. 98).

[fol. 1726] CLARENCE E. DAY, being produced, sworn and examined as a witness on the part of the petitioners testified as follows:

Direct examination.

By Mr. Muckley:

Witness stated his experience, and that he is in the executive department of the Southern Pacific Company. Witness stated that he had made very many studies since 1924 concerning costs of operation and cost data in connection with the operation of railroads; in fact, that that has been his particular assignment. He has made a study of the Commission's decision in this case and of the formula fixed by the Commission for arriving at the divisions of the joint rates.

Petitioners, through their counsel, offered to prove the following by the said witness:

Mr. Muckley: Now, if the Court please, I offer to prove by this witness that the Commission based its formula in this case upon relative costs of operation, including a fair return, in the respective territories involved in this case; that the formula adopted by the Commission by reason of the use of the Southwestern First Class Scale does not in any way fix divisions or arrive at a fair division, an equitable division on a cost basis, and that by reason of the very rapid decreasing progression in the Southwestern First Class Rate Scale, the Southwestern carriers which have the long hauls on this joint traffic, receive less than 20% more revenue than the Western Trunk Lines, and to the extent that they fall short of receiving 20% more revenue, the Commission's formula or conclusions do not conform to its findings. I offer to show by this witness that under accepted standards and opinion of experts in these matters, including Dr. Lorenz, the Chief Statistician of the Commission, that cost scales should not decrease in the progression in the manner that the Southwestern scale does.

[fol. 1727] OFFERS IN EVIDENCE

Petitioners also offered in evidence a diagram in exhibit form showing the progression of the Southwestern First Class Scale, which is used by the Commission in its division formula, and the same was marked for identification as Petitioners' Exhibit 25 E. F. M. (Tr. 108).

Petitioners also offered in evidence a diagram showing the progression in the First Class Southwestern rates, and the same was marked for identification as Petitioners' Exhibit 26 E. F. M. (Tr. 111).

Petitioners also offered in evidence a diagram showing the progression in the First Class Southwestern Scale compared with the progression in a cost scale properly prepared, and the same was marked for identification as Petitioners' Exhibit 27 E. F. M. (Tr. 112).

The defendants objected to the said offer of testimony and to the said exhibits upon the ground that the same are irrelevant and immaterial; that the said evidence is not relevant to any issue in this suit; and that the Commission's report is the best evidence of what the Commission did and on what it rested its opinion.

The said offer of testimony and of each of the said exhibits was rejected, to which ruling and action of the Court as to each of the said matters the petitioners, by their counsel, at the time duly and separately excepted, and still separately except.

Thereupon the petitioners rested their case.

The record which was offered in evidence contains all of the testimony and all of the exhibits that were offered in the case before the Commission in the matter of divisions between the Western Trunk Line respondents and the Southwestern respondents (Tr. 115-116).

No restraining order was issued in the case, the Interstate Commerce Commission having postponed the effective date of the order. The case was submitted on final hearing (Tr. 121-122).

Counsel for the Commission undertook, upon recommendation of the Court, to request the Commission to extend the effective date of the order in the case until the first day of December (Tr. 120-121).

[fol. 1728] IN UNITED STATES DISTRICT COURT

ORDER APPROVING STATEMENT OF EVIDENCE—Filed Jan. 22, 1930

The undersigned, being the three judges who tried the above entitled cause, in which an order or decree was entered on to-wit: the 27th day of November, 1929, do hereby certify that the statement of the evidence as prepared by the appellants, consisting of 1,620 pages, is, with the original exhibits offered in evidence, which are to be certified separately by the Clerk of this Court to the Supreme Court of the United States, a true, perfect and complete statement of all of the evidence in this cause, and that the said statement of the evidence, with the said exhibits, comprises all of the evidence and all of the exceptions and objections of any party in this cause to the introduction of any of the said evidence.

Archibald K. Gardner, United States Circuit Judge.
Albert L. Reeves, Merrill E. Otis, United States District Judges.

O. K. Elmer B. Collins, Edward M. Reidy.
O. K. F. H. Towner.
O. K. F. H. Moore, W. E. Davis.

IN UNITED STATES DISTRICT COURT

RECORD ENTRY ORDER TO CERTIFY ORIGINAL EXHIBITS, ETC.—Filed Jan. 22, 1930

This day come the parties herein by their respective attorneys and file Order to certify original exhibits to the Supreme Court of the United States, also Stipulation relative to tariffs; thereupon the Intervening defendants, Wm. W. Wheelock, etc., file Motion for an order vacating and [fol. 1729] setting aside the order staying the order of the Interstate Commerce Commission, also statement of showing to be made upon said motion and notice of hearing; petitioners file objections to said motion together with affidavits of L. J. Sickel and W. G. Buechner; thereupon said motion is submitted to the court and taken under advisement.

IN UNITED STATES DISTRICT COURT

ORDER TO CERTIFY ORIGINAL EXHIBITS TO THE SUPREME COURT—Filed Jan. 22, 1930

This day this cause came on for hearing upon the motion filed by the appellants for an order directing the Clerk of this Court, in making up the record for appeal of the above entitled cause to the Supreme Court of the United States, to certify to the Supreme Court the original exhibits, separately from the transcript of the record, the appellants appearing by their counsel, Messrs. F. H. Moore, W. E. Davis and A. F. Smith, the United States and the Interstate Commerce Commission appearing by their Counsel, Mr. E. M. Reidy and Mr. William W. Wheelock, et al., intervening defendants, appearing by their counsel Mr. F. H. Towner.

The court, after considering the said motion and being duly advised in the premises, doth order and direct that the Clerk of this Court, in preparing the transcript of the record on appeal in the above entitled cause to the Supreme Court of the United States, shall certify all of the original exhibits introduced in evidence in the said cause, being the exhibits introduced in evidence at the hearing before the Court and which were marked for identification as Petitioners' Exhibits 2 to 27, inclusive, and also all of the exhibits which were attached to petitioners' Exhibit No. 1, the said exhibits attached to petitioners' Exhibit No. 1 being marked Exhibits 1-A to A-289, inclusive, but not including the testimony contained in petitioners' Exhibit No. 1, for the reason that the same has been reduced to narrative form, and is being certified and forwarded in transcript of the record, and it is further ordered that the [fol. 1730] said exhibits shall be certified and forwarded by the Clerk of this Court as original exhibits, not as a part of the transcript of the record, but separately therefrom, and that any of the parties hereto may refer to said original exhibits in their briefs and arguments with like effect as if printed as part of the record.

Albert L. Reeves, U. S. District Judge.

O. K. F. H. Towner, Elmer B. Collins, Edward M. Reidy, F. H. Moore, W. E. Davis.

[File endorsement omitted.]

82—642, 643

[fol. 1731] IN UNITED STATES DISTRICT COURT

STIPULATION RE EXHIBIT "A-9"—Filed Jan. 22, 1930

It is agreed that the tariffs listed in Exhibit No. A-9 offered on the hearing before the Commission and referred to in the transcript of evidence filed herein, contain the then applicable specific rates, the division of which was prescribed by the Commission in its orders; that said tariffs were in evidence before the Commission and the District Court as a part of the records made before said Commission and said Court; and that this statement shall be taken as a full and correct statement of what said tariffs contain.

It is further agreed that none of said tariffs listed in said Exhibit No. A-9 need be physically included in the record or exhibits certified to the Supreme Court, and no exception shall be taken by either party to the physical omission of said tariffs from the transcript of evidence and exhibits certified to the Supreme Court nor shall any party claim that the transcript of the record is insufficient because of their omission therefrom.

Dated this 22nd day of January, 1930.

United States of America, by Elmer B. Collins, Sp. Asst. to the Atty General. Interstate Commerce Commission, by E. M. Reidy, Its Solicitor. William W. Wheelock and William G. Bierd, Receivers of The Chicago and Alton Railroad Company, Chicago and Eastern Illinois Railway Company, Chicago and North Western Railway Company, Chicago, Burlington and Quincy Railroad Company, Chicago Great Western Railroad Company, [fol. 1732] Chicago, St. Paul, Minneapolis and Omaha Railway Company, Illinois Central Railroad Company, W. H. Bremner, Receiver of Minneapolis & St. Louis Railroad Company, St. Paul & Sault Ste. Marie Railway Company and Wabash Railway Company, Interveners and Appellees, by F. H. Towner. The Beaumont, Sour Lake & Western Railway Company, The Fort Worth and Denver City Railway Company, The Galveston, Harrisburg, and San Antonio Railway Company, Houston and Shreveport Railroad Company, Houston & Texas Central Railroad Company, The

Houston East and West Texas Railway Company, International-Great Northern Railroad Company, The Kansas City Southern Railway Company, Louisiana & Arkansas Railway Company, Louisiana Railway & Navigation Company, Louisiana Western Railroad Company, Missouri-Kansas-Texas Railroad Company, Missouri-Kansas-Texas Railroad Company of Texas, Missouri Pacific Railroad Company, Morgan's Louisiana and Texas Railroad and Steamship Company, New Orleans, Texas & Mexico Railway Company, The St. Louis, Brownsville and Mexico Railway Company, St. Louis-San Francisco Railway Company, St. Louis, San Francisco and Texas Railway Company, St. Louis Southwestern Railway Company, St. Louis Southwestern Railway Company of Texas, San Antonio & Aransas Pass Railway Company, Texas and New Orleans Railroad Company, and The Texas and Pacific Railway Company, Petitioners and Appellants, by F. H. Moore, W. E. Davis, Solicitors for Petitioners and Appellants.

Approved.

[File endorsement omitted.]

[fol. 1733] IN UNITED STATES DISTRICT COURT

MOTION FOR ORDER VACATING, ANNULLING, AND SETTING ASIDE ORDER STAYING ORDER OF THE INTERSTATE COMMERCE COMMISSION—Filed Jan. 22, 1930

Now come William W. Wheelock and William G. Bierd, Receivers of The Chicago and Alton Railroad Company; Chicago and Eastern Illinois Railway Company; Chicago and Northwestern Railway Company; Chicago, Burlington & Quincy Railroad Company; Chicago Great Western Railroad Company; Chicago, St. Paul, Minneapolis & Omaha Railway Company; Illinois Central Railroad Company; W. H. Bremner, Receiver of Minneapolis & St. Paul Railroad Company; Minneapolis, St. Paul & Sault Ste. Marie Rail-

way Company; and Wabash Railway Company; intervening defendants herein, by their counsel F. H. Towner, and ask that the court enter an order herein vacating, annulling and setting aside the order entered herein on November 29, 1929, in which order the enforcement, operation and execution against petitioners herein, or any of them, of the order of the Interstate Commerce Commission, entered under date of June 10, 1929, and the amended and supplemental orders dated July 25, 1929, and September 24, 1929, in the proceeding before said Commission entitled and known as Docket No. 15234, "In the Matter of Divisions of Freight Rates in Western and Mountain Pacific Territories" was stayed, restrained, enjoined and suspended as to said petitioners and each of them and supersedeas thereof allowed during the pendency and until the determination of the appeal taken by said petitioners to the Supreme Court of the United States, be vacated, annulled and set aside.

F. H. Towner, Solicitor for said Intervening Defendants.

[File endorsement omitted.]

IN UNITED STATES DISTRICT COURT

STATEMENT OF SHOWING TO BE MADE UPON THE HEARING OF MOTION TO VACATE ORDER STAYING ORDER OF INTERSTATE COMMERCE COMMISSION—Filed Jan. 22, 1930

Upon the hearing on January 22, 1930, of the motion of [fol. 1734] the solicitors for William W. Wheelock and William G. Bierd, Receivers of The Chicago and Alton Railroad Company, et al., intervening defendants herein, for an order vacating, annulling and setting aside the order entered herein on November 29, 1929, in which order the enforcement against petitioners herein of the orders of the Interstate Commerce Commission, entered in its Docket No. 15234, was stayed, pending the determination of petitioners appeal to the Supreme Court of the United States, the solicitors for said defendants, will make the following showing:

1. They will present evidence to show that the order entered herein on November 29, 1929, staying the orders of the Interstate Commerce Commission entered in its Docket No. 15234, has caused and will cause confusion among the railroads named as respondents in said orders of said Commission and may produce violations of section 16 of the Act to Regulate Commerce, or of the said stay order entered herein, for the reason that all of the southwestern roads, parties to said orders of the Commission, are not petitioners herein and are not protected by said stay order; that in the division of revenue on traffic covered by said orders of the Commission and moving subsequent to December 1, 1929 and handled in the southwest jointly by railroads petitioners in this suit, and railroads which are not petitioners herein, two divisional bases must be applied, one the basis in effect prior to December 1, 1929, and the other the basis prescribed by said Commission in its orders; that a large volume of such traffic is now moving and will continue to move between western trunk line territory and southwestern territory; that unless both of said divisional bases are applied in dividing the revenue on said traffic there will be violations either of the stay order entered herein on November 29, 1929, or of the provisions of Section 16 of the Act to Regulate Commerce; that it will be a practical impossibility to so apply the said two divisional bases in dividing the revenue upon such traffic.

2. They will present evidence to show that if said stay [fol. 1735] order entered herein on November 29, 1929, is not vacated, annulled and set aside, there will be imposed upon the western trunk lines, intervening defendants herein, the obligation to keep an accurate record of all shipments moving subsequent to November 30, 1929, and to which the said orders of the Commission will be applicable in the event the Supreme Court of the United States sustains said orders. The keeping of said records will impose upon the western trunk lines, intervening defendants herein, a large expense which they should not be required to assume;

3. That if the said stay order entered herein on November 29, 1929, is vacated and set aside and the said orders of

the Interstate Commerce Commission are allowed to become effective as of December 1, 1929, there will be no confusion at all in the settlement of the divisions as between the western trunk lines and the southwestern lines and that no expense will be imposed upon the petitioners herein which should not be imposed upon them.

4. They will present evidence to show that the situation as it existed prior to December 1, 1929 is not continued in effect subsequent to said date by virtue of the stay order entered herein on November 29, 1929.

5. They will show that if the stay order entered herein on November 29, 1929 is not vacated and set aside the rights and interests of the western trunk lines, defendants herein, will be seriously affected to their great damage, for the reason that the stay bond filed herein does not protect them in respect to increased divisions due them from the nine railroad companies in southwestern territory, which companies are not plaintiffs in this suit and are not obligors on said bond and with respect to whose traffic, which is subject to the said orders of the said Commission, said orders cannot be successfully applied because of said stay order entered herein.

6. They will show that there are no important and novel questions presented by the assignment of errors filed by [fol. 1736] the petitioners herein in the Supreme Court of the United States and concerning which there is any serious doubt.

7. They will show that the petitioners herein will not sustain irreparable injury if said stay order entered herein is vacated and set aside and said petitioners are required to comply with said orders of said Commission, even though said orders are set aside in the Supreme Court of the United States, and that in such event, said petitioners will be able to recover from the western trunk line railroads, defendant herein, and which are in receivership, any

amounts paid to said railroads under said orders of said Commission during the pendency of said appeal.

Silas H. Strawn, K. L. Richmond, P. F. Gault, K. F. Burgess, Ralph M. Shaw, J. Carter Fort, G. M. Swanstrom, A. H. Lossow, L. H. Strasser, F. H. Towner, Solicitors for William W. Wheelock and William G. Bierd, Receivers of The Chicago and Alton Railroad Company, et al., Intervening Defendants.

[File endorsement omitted.]

IN UNITED STATES DISTRICT COURT

NOTICE OF HEARING ON MOTION TO VACATE ORDER STAYING ORDER OF INTERSTATE COMMERCE COMMISSION—Filed Jan. 22, 1930

To F. H. Moore, W. E. Davis, E. T. Miller, M. G. Roberts, J. R. Bell, G. H. Muckley, H. H. Larimore, C. S. Burg, [fol. 1737] J. R. Turney, Robert Thompson, solicitors for Petitioners:

Please Take Notice that on Wednesday, the 22nd day of January, 1930, at the opening of court, or as soon thereafter as counsel can be heard, we shall appear before the Honorable Archibald K. Gardner, Circuit Judge, the Honorable Albert L. Reeves, District Judge, and the Honorable Merrill E. Otis, District Judge, in the room occupied by them as a court room in the Federal Building at Kansas City, Missouri, and will present our motion for an order vacating the order entered herein on November 29, 1929, in which order the enforcement, operation and execution against petitioners, or any of them, of the order of the Interstate Commerce Commission, entered under date of June 10, 1929, and the amended and supplemental orders dated July 25, 1929, and September 24, 1929, in the proceeding before said Commission entitled and known as Docket No. 15234, "In the Matter of Divisions of Freight Rates in Western and Mountain Pacific Territories" was stayed, restrained, enjoined and suspended as to petition-

ers and each of them, during the pendency and until the determination of their appeal, taken herein to the Supreme Court of the Unite States.

There is attached hereto a copy of said motion, a copy of said order, a copy of telegram sent to the Honorable Archibald K. Gardner, Circuit Judge, to F. H. Towner, dated January 10, 1930, and a statement of the showing that will be made by the undersigned upon the hearing of said motion.

Silas H. Strawn, K. L. Richmond, P. F. Gault, K. F. [fol. 1738] Burgess, Ralph M. Shaw, J. Carter Fort, G. M. Swanstrom, A. H. Lossow, L. H. Strasser, F. H. Towner, Solicitors for William W. Wheelock and William G. Bierd, Receivers of The Chicago and Alton Railroad Company; Chicago and Eastern Illinois Railway Company; Chicago and Northwestern Railway Company; Chicago, Burlington & Quincy Railroad Company; Chicago Great Western Railroad Company; Chicago, St. Paul, Minneapolis & Omaha Railway Company; Illinois Central Railroad Company; W. H. Bremner, Receiver of Minneapolis & St. Louis Railroad Company; Minneapolis, St. Paul & Sault Ste. Marie Railway Company, and Wabash Railway Company, Intervening Defendants.

Received a copy of the foregoing notice, together with a copy of the motion, order, telegram and statement of showing therein referred to, this 13th day of January, 1930.

F. H. Moore, W. E. Davis, E. T. Miller, M. G. Roberts, J. R. Bell, G. H. Muckley, H. H. Larimore, C. S. Burg, J. R. Turney, Robert Thompson, Solicitors for Petitioners. Elmer B. Collins, Solicitor [fol. 1739] for United States. E. M. Reidy, Solicitor for Interstate Commerce Commission.

[File endorsement omitted.]

[fol. 1740] IN UNITED STATES DISTRICT COURT

OBJECTIONS TO JURISDICTION AND, SUBJECT THERETO, STATEMENT OF SHOWING TO BE MADE AT THE HEARING ON JANUARY 22, 1930, BY APPELLANTS IN OPPOSITION TO THE MOTION OF THE INTERVENING WESTERN TRUNK LINE APPELLEES FOR THE VACATION OF THE ORDER ENTERED BY THE COURT ON NOVEMBER 29, 1929, STAYING THE OPERATION AND ENFORCEMENT AGAINST APPELLANTS OF THE ORDERS OF THE INTERSTATE COMMERCE COMMISSION IN DOCKET NO. 15234 PENDING THE APPEAL TO THE SUPREME COURT OF THE UNITED STATES—Filed Jan. 22, 1930

Appellants oppose the said motion of the intervening Western Trunk Line appellees and the consideration and decision of the same by this Court, upon the following grounds:

1. This Court has no jurisdiction to hear and decide the said motion for the reason that before the same was filed an appeal of the said cause to the Supreme Court of the United States had been perfected.

2. This Court has no jurisdiction to hear and decide the said motion, for the reason that, before the same was filed, a cross appeal, on account of the granting of the said order staying the operation and enforcement of the said orders of the Interstate Commerce Commission, had been taken by the United States and the Interstate Commerce Commission, defendants and appellees herein.

[fol. 1741] 3. This Court has no jurisdiction to hear and decide the said motion, for the reason that the statutory defendant in this case, the United States of America, and also the Interstate Commerce Commission, have filed a cross appeal from the action of this Court in granting the said order staying the enforcement of the said orders of the Interstate Commerce Commission; and that the said motion of the said interveners is inconsistent with the said cross appeal, and the interveners have no right to take any action which is inconsistent with the conduct of the said case by the said defendant, the United States of America.

Subject to the above pleas to the jurisdiction, which appellants do not waive, but on the contrary, insist upon, appellants make the following allegations, which they offer to prove, in so far as the same require proof:

1. In answer to the first paragraph of said interveners' statement, appellants allege that the practical impossibility, if any, of applying the said two divisional bases arises, not from the fact that there are two bases of divisions, but from the fact that the percents for the division of the revenues in accordance with the Commission's orders have not yet been worked out, and, as hereinafter explained, cannot be worked out for considerable time; that two bases of divisions can be, and at times are, applied to the revenue even for a single movement; appellants further state that confusion would not be obviated by vacating the said stay order of this Court, as claimed by the said interveners, but, on the contrary, would be increased thereby; that two divisional bases, applying to the traffic between Western Trunk Line territory and Southwestern territory would be necessary under the Commission's orders even if the stay order were vacated; that this results from the fact that the said orders of the Interstate Commerce Commission were not made to apply to the divisions of the rates on all traffic between Western Trunk Line territory and Southwestern territory, but to apply only to revenue from traffic which not only has origin or destination on the line of a Southwestern respondent, but also has destination or origin, as the case may be, on the line of a Western Trunk Line respondent, or has origin or destination on the line of a Southwestern respondent and is transported to or from certain Eastern territory and passes over the line of a Western Trunk Line respondent; that there is a large amount of traffic between Western Trunk Line territory [fol. 1742] and Southwestern territory to which the said divisional orders of the Commission do not apply; that there are over 100 railroads in the Southwestern territory which, individually, or in the aggregate, originate and deliver a substantial amount of such traffic; that the Commission failed and refused to make the said railroads respondents in the said proceeding, although the Southwestern respondents filed a motion asking that the said other

Southwestern railroads should be made respondents; that there are also a large number of railroads operating in the Western Trunk Line territory which the Commission failed to make respondents in the said proceeding, and which originate and deliver a substantial amount of such traffic; that two bases of divisions are a necessary result and effect of the enforcement and operation of the said orders of the Commission; that the continuance of this Court's stay order will result in a minimum of confusion and inconvenience pending the appeal, for the reason that if appellants shall succeed in their appeal, it will never be necessary, as to them, to establish two bases of divisions or to compute the said divisions upon the basis prescribed by the Interstate Commerce Commission, but the original computation, based upon the existing basis of divisions will become final, and a large amount of useless expense, labor and confusion will be avoided, any confusion which would result being confined to the Southwestern respondents which failed to join in this suit; that if the appellants shall fail in their said appeal, the divisions upon the basis prescribed by the Commission, can then be re-computed upon the traffic to which they apply; that such re-computations and adjustments are made, in numerous instances, by the carriers, where a basis of divisions is changed and given a retroactive effect; that the alleged fact that certain of the Southwestern respondents may violate Section 16 of the Interstate Commerce Act, or the said stay order of this Court, because the said respondents did not join in this suit, and are not protected by the stay order, is not [fol. 1743] due to any fault of appellants, and they should not be penalized therefor, but appellants allege that there is no reason why the said Southwestern respondents which did not join in this suit cannot make as substantial compliance with the orders of the Commission as if said stay order were not in effect; that in any event, whether the stay order were in force or not, the working out of the percents upon which the revenues shall be divided (by agreement on distances, ascertainment of first class rates for such distances from the Southwestern scale, application of the percents prescribed in the Commission's formula, and ascertainment therefrom of the relative proportions, stated in per cents, to which the Western Trunk

Lines and Southwestern Lines are entitled between a certain point of origin and a certain point of destination) and agreement on groups of points to which each percent shall apply, for the purpose of securing the rapid, accurate and practical application of the basis of divisions prescribed by the Commission, can not be perfected for several months, and the Southwestern respondents which did not join in this suit can make substantially as close an approximation as could be made, if no stay order were in effect, during the time which will be consumed by the pendency of this appeal; that the appellants have joined with the other Southwestern respondents and the Western Trunk Line respondents, since the decision of this case by this Court, in working out the details which, as briefly outlined above, must necessarily be worked out, before the said orders of the Commission can be practically applied to the division of the revenues from the said rates; that the appellants, in order to avoid delay, joined in the said work, with the reservation that the said divisions, as to them, should apply only if the decision of the Supreme Court of the United States should be adverse to them; that the said work has been diligently prosecuted, but it will be several months before the same can be completed; that, for the reasons above stated, appellants state that the Southwestern respondents which did not join in this [fol. 1744] suit can make substantially as close an approximation of the amounts due from them to the Western Trunk Lines as could be made at this time if the said stay order were not in effect; that, as already explained, the fact that two divisional bases must be applied to the said traffic cannot be urged by the said interveners as a matter which would be obviated by the vacation of the said stay order because the orders of the Commission contemplate that there shall permanently be two bases of divisions applying to the traffic between the Western Trunk Line region and the Southwestern region; that the appellees can have the hearing of the appeal in this case expedited, if they so desire, and appellants will cooperate for the purpose of securing an early hearing, before the end of the present term; that the minimum of inconvenience and confusion will be obtained in the meantime, by continuing the said stay order in effect, and confining such

confusion as there may be to the Southwestern respondents which failed to join in this suit, instead of extending it to all the Southwestern railroads.

2. Appellants state, with reference to paragraph 2 of the said interveners' statement, that if the said order of the Court is not vacated there will not (as claimed by the interveners) be imposed upon the Western Trunk Lines the obligation of keeping a record of shipments moving subsequent to November 30, 1929, to which the said orders of the Commission apply, if by the said allegation it is meant that a record must be kept in addition to the records which are customarily kept. Appellants allege that it will not be necessary and will not accomplish any saving of time or labor, to keep such a record; that if the orders of the Commision should be sustained by the Supreme Court of the United States, the difference in amount of divisions due to the Western Trunk Lines can be as easily computed from the original records which are necessarily kept by the carriers as if a special record were kept; that in any event, only approximations of the divisional bases [fol. 1745] prescribed by the Commission could be made at this time and it would later be necessary to correct the said original records in accordance with the detailed bases finally determined upon between the parties.

3. Appellants, with reference to paragraph 3 of the said interveners' statement, allege that, should the said stay order of the Court be vacated but the said orders of the Commission be held to be invalid by the Supreme Court of the United States, all the railroads participating in the said traffic, including the Western Trunk Line appellees, and Eastern carriers, as well as appellants, will have been put to a large amount of useless expense, and appellants allege further that there will necessarily be a great deal of confusion if the said orders of the Commission become effective, for the reason, as already stated, that a large number of railroads in the Southwestern territory and Western Trunk Line territory were not made respondents in the said proceeding before the Commission, and also, because the basis of divisions prescribed by the Commission has not yet been put in shape for practical application.

4. Appellants allege, with respect to the allegations contained in paragraph 4 of interveners' statement, to the effect that the situation as it existed prior to December 1, 1929, is not continued in effect subsequent to the said date by virtue of the said stay order of the Court, that such condition is continued in effect in so far as appellants are concerend; and that the Southwestern respondents which did join in this suit can make as substantial compliance with the said orders of the Commission as if the said stay order were not in effect.

5. Appellants, with reference to paragraph 5 of the said interveners' statement, allege that the nine railroads in Southwestern territory which were respondents in the said proceeding and which did not join in this suit are, in addition to the Kansas, Oklahoma & Gulf Railway Company, parts of the systems of The Atchison, Topeka and Santa Fe Railway Company, The Chicago, Rock Island & Pacific Railway Company, and the Illinois Central Railroad Company, all of which are solvent and fully able to respond [fol. 1746] in damages for any amounts which may be due from them to the said interveners; and that ample and adequate remedies are provided for the enforcement of orders of the Interstate Commerce Commission.

6. With reference to paragraph 6 of the said interveners' statement, which apparently is a statement of legal conclusions, appellants allege and are prepared to show that there are important and novel questions presented by the assignment of errors herein, and concerning which it cannot be fairly claimed by interveners that there is no serious doubt.

7. With reference to paragraph 7 of the said interveners' statement, appellants allege that they will sustain irreparable injury if the said stay order entered herein is vacated and set aside and they are required to comply with the said orders of the said Commission, provided the said orders are not sustained in the Supreme Court of the United States; and they allege further that there is grave danger that they would not be able to recover from the Western Trunk Line railroads which are in receivership (and possibly certain other Western Trunk Line railroads) any

amounts paid to the said railroads under the said orders of the Commission during the pendency of the said appeal.

F. H. Moore, W. E. Davis, E. T. Miller, M. G. Roberts, J. R. Bell, G. H. Muckley, H. H. Larimore, C. S. Burg, J. R. Turney, Robert Thompson, Solicitors for Appellants.

[File endorsement omitted.]

[fol. 1747] IN UNITED STATES DISTRICT COURT

AFFIDAVIT OF L. J. SICKEL—Filed Jan. 22, 1930

STATE OF MISSOURI,
County of Jackson, ss:

L. J. Sickel, of lawful age, being first duly sworn, on his oath deposes and says that he is Assistant General Freight Agent of the Missouri Pacific Railroad Company; that he is also Chairman of the Southwestern Committee on the subject of this divisions litigation; that he is familiar with the matters and facts stated in Paragraphs 1, 2 and 5 of the objections to jurisdiction, and, subject thereto, statement of showing to be made at the hearing on January 22, 1930, by appellants, in opposition to the motion of the intervening Western Trunk Line appellees for the vacation of the order entered by the court on November 29, 1929, stying the operation and enforcement against appellants of the orders of the Interstate Commerce Commission in Docket No. 15234 pending the appeal to the Supreme Court of the United States presented in this cause; and that the matters and facts therein stated are true as he verily believes.

L. J. Sickel.

Subscribed and sworn to before me this 22" day of January, 1930. My commission expires Apr. 2, 1931. G. T. Aughinbaugh, Notary Public Within and for said County and State. (Seal.)

[File endorsement omitted.]

[fol. 1748] IN UNITED STATES DISTRICT COURT

AFFIDAVIT OF W. G. BUECHNER—Filed Jan. 22, 1930

STATE OF MISSOURI,
County of Jackson, ss:

W. G. Buechner, of lawful age, being first duly sworn, on his oath deposes and says that he is Auditor of Revenues of the Kansas City Southern Railway Company, and has held such position or a similar position with a different title with said company for over eleven years. Affiant further says that he has read objections to jurisdiction, and, subject thereto, statement of showing to be made at the hearing on January 22, 1930, by appellants, in opposition to the motion of the intervening Western Trunk Line appellees for the vacation of the order entered by the court of November 29, 1929, staying the operation and enforcement against appellants of the orders of the Interstate Commerce Commission in Docket No. 15234 pending the appeal to the Supreme Court of the United States; that he is familiar with the matters and facts stated in Paragraphs 1, 2 and 5 on Pages 2, 3, 4, 5 and 6 of said document; and that the matters and [fol. 1749] facts stated in said paragraphs 1, 2 and 5 of said document are true and correct as this affiant verily believes.

W. G. Buechner.

Subscribed and sworn to before me this 22" day of January, 1930. G. T. Aughinbaugh, Notary Public Within and for said County and State. My commission expires Apr. 2, 1931. (Seal.)

[File endorsement omitted.]

[fol. 1750] IN UNITED STATES DISTRICT COURT

ORDER EXTENDING TIME TO FILE TRANSCRIPT OF RECORD AND TO DOCKET CASE—Filed Jan. 22, 1930

For good cause shown, upon application of Appellants, the time in which to file the transcript of the record in the above cause in the Supreme Court of the United States and

to docket the said cause therein, is hereby extended to the tenth day of February, A. D. 1930.

Dated January 22nd, 1930.

Archibald K. Gardner, U. S. Circuit Judge. Albert L. Reeves, U. S. District Judge. Merrill E. Otis, U. S. District Judge.

O. K. Elmer B. Collins, Edward M. Reidy, Solicitors for the United States of America and the Interstate Commerce Commission, Appellees.

O. K. F. H. Towner, Solicitor for William W. Wheelock and William G. Bierd, Receivers of The Chicago and Alton Railroad Company; Chicago and Eastern Illinois Railway Company, Chicago and North Western Railway Company, Chicago, Burlington and Quincy Railroad Company, Chicago, Great Western Railroad Company, Chicago, St. Paul, Minneapolis and Omaha Railway Company, Illinois Central Railroad Company, W. H. Bremner, Receiver of Minneapolis & St. Louis Railroad Company; Minneapolis, St. Paul & Sault Ste. Marie Railway Company, and Wabash Railway Company, Appellees.

[File endorsement omitted.]

[fol. 1751] In United States District Court

Order Overruling Motion to Set Aside Order Staying Order of Interstate Commerce Commission—Filed Feb. 3, 1930

This day this cause came on for hearing upon the motion filed by Wm. W. Wheelock and Wm. G. Bierd, Receivers of The Chicago and Alton Railroad Company, et al., Intervening Defendants and Appellees, in the above entitled cause, for an order vacating, annulling and setting aside the order made and entered herein by the Court, on November 29, 1929, staying the enforcement, against the appellants herein, of the orders made by the Interstate Commerce Commission in its Docket No. 15234, pending the deter-

mination of the appeal of this cause to the Supreme Court, the said Wm. W. Wheelock and Wm. G. Bierd, Receivers of the Chicago and Alton Railroad Company, et al., Intervening Defendants and Appellees, appearing by their counsel, Messrs. F. H. Towner, K. F. Burgess and P. F. Gault, the United States of America and the Interstate Commerce Commission appearing by their counsel, Mr. E. M. Reidy and joining in said motion, and the appellants appearing by their counsel, Messrs. F. H. Moore, W. E. Davis and A. F. Smith,

And the Court, after considering the said motion, and the showing and arguments, made by the parties hereto, and being fully advised in the premises, finds that, although all of the railroad companies, including the appellants, which were named as respondents in the proceeding before the Interstate Commerce Commission known as Docket No. 15234, have, since the decision of this cause by this Court, worked diligently for the purpose of ascertaining and agreeing upon the percentages for the division of revenue in accordance with the Commission's said orders, the ap- [fol. 1752] pellants joining therein in order to avoid delay if the said orders of the Commission should be sustained upon appeal to the Supreme Court, a great number of matters must be agreed upon, calculations made and details settled, before the percentages for the division of the revenue from the traffic here involved, between the many points of origin and destination on the lines of respondents in Western Trunk Line territory and Southwestern territory can be established, for practical application in the division of the said revenue; that the said work can not be completed for several months from this date, and until it is completed, a strict application of the said divisional basis prescribed by the Commission would be impossible, even if the said stay order were vacated; that, in so far as complaint is made by the said William W. Wheelock, et al., of two divisional bases, the Court finds that two divisional bases, each applying to a large amount of traffic between Western Trunk Line territory and Southwestern territory, would be a necessary result of the orders of the Commission if the same should go into effect, for the reason that the divisions prescribed by the Commission apply only to the traffic from or to points on the lines of the Southwest-

ern respondents to or from points on the lines of the Western Trunk Line respondents, or passing over the lines of such Western Trunk Line respondents to or from certain Eastern territory, and there are a large number of railroads in both Western Trunk Line territory and Southwestern territory which were not made respondents in the proceeding before the Commission, and to and from whose stations the said divisions do not apply; that the railroads can, and do, at times, apply two bases of divisions even in dividing the revenue received from a single shipment of freight; that therefore, for the reasons stated, the confusion and difficulty of which the said William W. Wheelock, et al., complain would not be obviated by the vacation of the said stay order, but would be increased; that such confusion as there may be will be reduced to a minimum, and a large amount of useless expense and labor, as to all parties, will be avoided, if the said stay order is continued in force pending the appeal of this cause to the Supreme Court, [fols. 1753 & 1754] whether such appeal shall be successful or not; that as substantial compliance with the said orders can be made, as to the Southwestern respondents which were not parties to this suit, as could be made if the said stay order were not in effect; that it is not necessary, and will accomplish no practical purpose, for William W. Wheelock, et al., to keep a special record in addition to the records customarily kept; that, pending said appeal, the status quo can and should be preserved, as between the parties to this suit, and the inconvenience and expense of all the said respondents will thereby be reduced to a minimum; that none of the respondents in the said proceeding need violate either the said stay order or the said orders of the Commission, if it endeavors in good faith to comply therewith; that the Court has considered the other reasons assigned in the said statement of William W. Wheeelock, et al., and that the same are substantially disposed of by the above findings and are without merit; that the Court has again carefully considered the findings contained in its said order entered herein on November 29, 1929, in view of the showing and arguments made upon this motion, and reaffirms all of the findings and conclusions upon which the Court based its order in granting the said stay;

It is, therefore, ordered, adjudged and decreed that the said motion that the said stay order be vacated be, and it is hereby denied.

January 22, 1930.

Archibald K. Gardner, United States Circuit Judge.
Albert L. Reeves, Merrill E. Otis, United States District Judges.

[File endorsement omitted.]

[fol. 1775] In United States District Court

Supplemental Præcipe for Record—Filed Feb. 3, 1930

To the Clerk:

In preparing transcript of the record in the above-entitled cause matter of the appeal of The Beaumont, Sour Lake & Western Railway Company, The Fort Worth and Denver City Railway Company, The Galveston, Harrisburg, and San Antonio Railway Company, Houston and Shreveport Railroad Company, Houston & Texas Central Railroad Company, The Houston East and West Texas Railway Company, International-Great Northern Railroad Company, The Kansas City Southern Railway Company, Louisiana & Arkansas Railway Company, Louisiana Railway & Navigation Company, Louisiana Western Railroad Company, Missouri-Kansas-Texas Railroad Company, Missouri-Kansas-Texas Railroad Company of Texas, Missouri Pacific Railroad Company, Morgan's Louisiana and Texas Railroad and Steamship Company, New Orleans, Texas & Mexico Railway Company, The St. Louis, Brownsville and Mexico Railway Company, St. Louis-San Francisco Railway Company, St. Louis, San Francisco and Texas Railway Company, St. Louis Southwestern Railway Company, St. Louis Southwestern Railway Company of Texas, San Antonio & Aransas Pass Railway Company, Texas and New Orleans Railroad Company, and The Texas and Pacific Railway Company, petitioners and appellants herein, please include therein (in addition to the matter specified in appellants' original præcipe herein), in the order given below, the following matter, viz:

[fol. 1756] 1. Motion for order vacating order staying Interstate Commerce Commission's orders in its Docket No. 15234 and interveners' statement of showing accompanying said motion.

2. Objections to jurisdiction of Court to hear and decide motion to vacate order for stay, and counter-statement of showing by appellants.

3. Affidavit of L. J. Sickel in support of appellants' counter-statement of showing.

4. Affidavit of W. G. Buechner in support of appellants' counter-statement of showing.

5. Order denying interveners' motion to vacate stay of Interstate Commerce Commission's orders.

6. Order directing Clerk to certify original exhibits to Supreme Court.

7. Order and certificate approving condensed statement of evidence in narrative form.

8. Stipulation as to contents of certain tariffs referred to in hearing before Interstate Commerce Commission.

9. Order of January 22, 1930, extending time to file transcript and to docket case.

10. Supplemental præcipe for record and acknowledgment of service or concurrence therein.

F. H. Moore, W. E. Davis, E. T. Miller, M. G. Roberts, J. R. Bell, G. H. Muckley, H. H. Larimore, C. S. Burg, J. R. Turney, Robert Thompson, Solicitors for Appellants.

[fol. 1757] The undersigned concur in the foregoing supplemental præcipe for record and receipt of a copy thereof is hereby admitted and acknowledged upon the dates shown below.

United States of America, by Elmer B. Collins, Special Assistant to the Attorney General, January 30, 1930. Interstate Commerce Commission, by Edward M. Reidy, Asst. Chief Counsel, January 27, 1930. William W. Wheelock and William G. Bierd, Receivers of The Chicago and Alton Railroad Company; Chicago and Eastern Illinois Railway Company, Chicago and North Western Railway Company, Chicago, Burlington and Quincy Railroad Company, Chicago Great Western Rail-

road Company, Chicago, St. Paul, Minneapolis and Omaha Railway Company, Illinois Central Railroad Company, W. H. Bremner, Receiver of Minneapolis & St. Louis Railroad Company; Minneapolis, St. Paul & Sault Ste. Marie Railway Company, and Wabash Railway Company, by F. H. Towner, January 27th, 1930.

[File endorsement omitted.]

[fol. 1758] IN UNITED STATES DISTRICT COURT WESTERN DISTRICT OF MISSOURI, WESTERN DIVISION

In Equity. No. 1363

THE BEAUMONT, SOUR LAKE AND WESTERN RAILWAY COMPANY et al., Petitioners,

vs.

UNITED STATES OF AMERICA and INTERSTATE COMMERCE COMMISSION et al., Defendants

Before Gardner, Circuit Judge, and Reeves and Otis, District Judges

MEMORANDUM OPINION—Filed Nov. 19, 1929

GARDNER, Circuit Judge, delivered the opinion of the Court:

This is a suit to enjoin and set aside an order of the Interstate Commerce Commission entered "In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories, I. C. C. Docket 15234", which fixes a new basis for the divisions of joint rates applying on traffic between points in the southwestern and western trunk line territories, and of rates applying on traffic between points in southwestern territory and eastern territory but passing through western trunk line territory.

[fol. 1759] The Interstate Commerce Commission on its own motion, under date October 8, 1923, instituted an investigation for the purpose of determining whether the

divisions of freight rates and charges in Western and Mountain-Pacific territories were and for the future would be unjust, unreasonable, inequitable or unduly preferential or prejudicial as between the various carriers made respondents in the proceeding. By supplemental or additional orders other carriers were made respondents, and during the course of the proceedings an agreement was reached by the interested parties with respect to division of joint rates between points in Western Trunk Line territory and points in Pacific Coast territory. Thereafter the investigation was limited to divisions in the aggregate north and south of Kansas City and St. Louis, Missouri, and East St. Louis, Cairo, Gale and Thebes, Illinois, respectively, of joint rates between points in Western Trunk Line territory generally east of the Missouri River and points in the southwest.

A certified copy of the testimony taken by the Commission at the hearings held in the territories involved has been offered and received in evidence in this case. The Western Trunk Lines sought increases in their divisions and these demands were resisted by the Southwestern Lines. As the result of this hearing the Commission found that [fol. 1760] the divisions of joint rates on freight traffic in general between points in the Western Trunk Line territory, and points in the Southwest territory were unreasonable, and fixed a new basis for such division.

On petition for rehearing, the Commission, with some modifications, denied the petition and filed a report setting out the reasons for the modifications made and why the rehearing and reargument was denied, and final order was thereafter, on June 10, 1929, entered. It is to enjoin the enforcement of this order that the present suit is brought.

It may be said that by the new division fixed by the Commission's order, a higher percentage of joint rate is awarded the Western Trunk Line carriers than was received by them under the division theretofore in effect.

Certain evidence has been offered on behalf of petitioners and received subject to the objections of respondents. We think the evidence was properly received and should be considered.

At the very threshold of this controversy it seems necessary to consider the scope or limitation of the Court's juris-

diction. This is not a proceeding of which this Court would ordinarily have original jurisdiction. As a condition precedent to a consideration of the issues here presented, they [fol. 1761] must first have been presented to and passed upon by the Interstate Commerce Commission, which Commission has the power and jurisdiction to determine the preliminary and fundamental question of what is a just, reasonable and equitable division of a joint rate. It has been said by the Circuit Court of Appeals of this circuit that the question of "just, reasonable and equitable division for the future is a legislative question which only the Commission may determine." What then can this Court consider in determining the validity of the order in question?

The original proceeding instituted by and before the Commission finds its statutory authority in Section 15 (6) of the Interstate Commerce Act. Title 49, Section 15 (6) U. S. C. A. This section in part reads as follows:

"Whenever, after full hearing upon complaint or upon its own initiative, the Commission is of the opinion that the divisions of joint rates, fares, or charges, applicable to the transportation of passengers or property, are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers parties thereto (whether agreed upon by such carriers, or any of them, or otherwise established), the Commission shall by order prescribe the just, reasonable, and equitable divisions thereof to be received by the several carriers, * * *. In so prescribing and determining the divisions of joint rates, fares, and charges, the Commission shall give due consideration, among other things, to the efficiency with which the carriers concerned are operated, the amount of revenue required to pay [fol. 1762] their respective operating expenses, taxes, and a fair return on their railway property held for and used in the service of transportation, and the importance to the public of the transportation services of such carriers and also whether any particular participating carrier is an originating, intermediate, or delivering line, and any other fact or circumstance which would ordinarily, without regard to the mileage haul, entitle one carrier to a greater or less proportion than another carrier of the joint rate, fare of charge."

Manifestly the determination of the ultimate issue was the reasonableness of the division of the joint rates between the carriers. This determination is a question on which the finding of the commission is conclusive if supported by substantial evidence, unless there was some irregularity in the proceeding, or some error in the application of the rules of law. Skinner & Eddy Corp. v. United States, 249 U. S. 557; New England Divisions Case, 261 U. S. 184.

The Commission is not required to conform to the rules governing the weight or effect of evidence and the admission of evidence which in judicial proceedings would be incompetent, does not invalidate its orders. This Court cannot, therefore, weigh the evidence, nor substitute its judgment for that of the Commission, nor inquire into the soundness of the Commission's reason, nor the wisdom of its decision, but is limited to an inquiry as to whether or not the order is supported by substantial evidence, or whether there was some irregularity in the proceeding, or some error in [fol. 1763] the application of the rules of law. Western Chemical Co. v. United States, 271 U. S. 268; Assigned Car Cases, 274 U. S. 564; United States v. New River Co., 265 U. S. 533.

As was said by the Supreme Court in Assigned Car Cases, supra, "These are matters left by Congress to the administrative tribunal appointed by law and informed by experience." The jurisdiction formerly vested in the Commerce Courts and now vested in this Court, is confind to determining whether there had been violations of the Constitution or the power conferred on the Commission by statute, or an exercise of such power so conferred so arbitrarily as to virtually transcend the authority conferred. Kansas City So. v. United States, 231 U. S. 423.

It will thus be seen that the scope of inquiry in this Court is limited. The Court must approve or disapprove of the order of the Commission, and is without power to modify it, and it is likewise without power to review the Commission's findings of fact further than to determine whether there is substantial evidence to sustain the order. Unless, therefore, there were material errors of law or a want of substantial evidence to support the order, the petition in this case should be denied.

It is urged by the petitioners that the Commission performed a quasi-judicial function, and hence its action is subject to judicial review as to errors of law, including the [fol. 1764] charge of the insufficiency of the evidence or findings of fact. The respondents do not take serious issue with this contention, but insist that the Commission in performing that function met every requisite of the cases cited. It appears that a number of hearings were had, and a very voluminous record made comprising several thousand pages of transcript and nearly three hundred exhibits. The petitioners were given opportunity to be heard or introduce any pertinent or competent evidence which they might wish to offer. But notwithstanding the fact that the function performed was quasi-judicial it is not for this Court to weigh the evidence, nor to inquire into the wisdom or soundness of the conclusion reached by the Commission. Assigned Car Cases, supra. Interstate Commerce Commission v. U. P. RR. Co. 222 U. S. 541. Conceding that the petitioners had the right to a full hearing, it seems clear that they were given such a hearing.

It is next urged that the Commission's order should be set aside because the amount of revenue which will accrue to petitioners will not be as much as 17 to 20 per cent greater revenue per ton mile than the revenue accruing to the Western Trunk Lines, but will be not more than 9 per cent greater, whereas the Commission found that in 1924 it cost about 15% more per ton mile to transport freight in the southwest than in the Western Trunk Line territory. Evidence other than that offered before the Commission was [fol. 1765] offered and received in this Court in support of this contention.

In support of this contention counsel have stressed one or two statements found in the opinion of the Commission. Attention is called to the fact that the Commission has determined the relative cost of service as a vital thing to be ascertained, and that the cost is approximated within certain limits so far as ascertainable. These two elements are then selected as the test and the only test for the basis of the order and it is contended that because the order does not in practical operation produce with mathematical accuracy the results anticipated by the Commission it should be set aside. It should be observed in this connection that in this attack

all other factors or elements are not only subordinated but eliminated and disregarded. While the relative cost of service in the two groups was a vital thing to be ascertained, it does not follow that the solution of the Commission's problem was dependent entirely, and only on this determination. Vital as this factor may have been, it does not follow that the result of the Commission's order should, in disregard of every other factor, mathematically produce a result which reflects the difference in the cost of service in the two groups. The Commission itself, on petition for rehearing, considered this question and in the second report it is said:

"There are other matters to be considered such as the efficiency with which the carriers concerned are operated [fol. 1766] and the importance to the public of the transportation service of such carriers, but all of these we took into consideration in summarizing the pertinent evidence. • • • We realized that the statistics were open to criticism in certain respects and resolved doubts in favor of the carriers whose revenues would be reduced by our finding, i. e., the Southwestern lines. The final result was not the product of statistics alone but was reached in the exercise of judgment after considering all of the pertinent evidence."

The finding of the Commission as to the relative cost of service was simply an approximation and purported only to be such, and the Commission's report does not indicate that the difference in the cost of service should be reflected in the distributin of revenue.

Counsel contend that the Commission found that "The Southwestern respondents are entitled to an average of 17 or 20 per cent greater revenue per ton mile of freight transported than are the Western Trunk Line respondents." This is not warranted by the actual finding of the Commission which is that "Cost of Service, including a fair return on investment, was somewhere in the neighborhood of 20 per cent greater in the Southwest than in the Western Trunk line group, based on averages of 1923-1924 operations, and somewhere in the neighborhood of 17 [fol. 1767] per cent greater based on 1924 operations."

Cost of service is not analogous to revenue per ton mile. Revenue per ton mile varies of necessity with the length of haul, and the cost of service is made up of the cost of

terminal operations, which is substantially the same regardless of the length of haul and the cost of line haul which varies materially with the length of haul. The combination of these factors produces the cost per ton mile, which varies with the length of haul, but not in direct ratio. Counsel are relying upon the so-called September, 1928, test. In passing it may be observed that this test may or may not have been typical. The time covered was confessedly short and there are many factors going into the compilation of the exhibit which purports to reflect the result of the operations for the period mentioned.

It is, however, observed that the average length of haul of the Southwestern lines, as reflected by this test, was a little more than 50 per cent greater than the average length of haul on the Western lines. If we may assume the same cost of service in both territories, still the cost per ton mile on traffic for the Southwestern lines would be materially less than the corresponding cost for the Western Trunk lines for the reason that there is a longer average haul in the Southwestern territory. Divisions based on cost of service would therefore yield the Southwestern lines the [fol. 1768] same revenue per ton mile for the longer hauls as the Western Trunk lines received for their shorter hauls, and hence, divisions which would yield the Southwestern lines on this traffic 9 per cent more revenue per ton mile than the Western Trunk lines, the result claimed under the test would reflect a cost of service in the Southwest higher than that in the Western Trunk line territory by much more than 9 per cent.

It seems clear that a formula using the cost per ton mile would, under the circumstances, produce a result unfair to the Western Trunk Lines because of the shorter average haul on these lines.

It is apparent that the Commission had this matter in mind. In its report it is said:

"Stated differently, under the existing divisional bases and judged by a mileage prorate, a mile in southwestern territory is worth on the average from 129 to 135 per cent of a mile in Western Trunk Line territory. Nor does this fully indicate the relative advantage of the southwestern lines, for a mileage prorate is *by no means a perfect method*

of dividing joint rates, even where transportation and other conditions do not differ materially. It results in the same ton-mile revenue for each participating carrier, *regardless of the length of haul and of the principle that, other things being equal, ton-mile yields should decrease as distance increases.*"

[fol. 1769] Bearing in mind that the showing reflecting the test of September, 1928, is prepared on the ton-mile basis, it would seem pertinent to observe what the Interstate Commerce Commission of the United States says on this question in New England Divisions Case, 126 I. C. C. 579, 667:

"A mileage pro-rate is an unsatisfactory test when the hauls are short on one side and long on the other. Throughout this proceeding both complainants and defendants have seemed to lose sight of the significance of relative lengths of haul, especially when referring to ton-mile yields. Such yields are continually compared in the briefs with no mention of the lengths of haul, without which the comparisons are meaningless."

The Commission was not permitted to base its decision as to divisions of joint revenue upon any one thing, either cost of service, necessity, density of traffic, or any other single fact or element. The statutes required the Commission to give due consideration to all factors, and the Commission's report shows affirmatively that it has done so in this case. As was said by the Supreme Court in the Louisville-Nashville case, 227 U. S. 188, "For the validity of the order does not necessarily depend upon the correctness of each of these findings, so that the breaking of one or many links by disproof would destroy the chain upon which the order depended."

[fol. 1770] We are clear that the validity of the order cannot be made to depend alone upon a division of revenue which would exactly reflect the approximate division in cost of service.

The Commission is a body informed as to railroad conditions and with railroad problems. As was said by the Supreme Court in O'Feefe v. United States, 240 U. S. 249,

"A tribunal such as the Interstate Commerce Commission, expert in matters of rate regulation, may be presumed to be able to draw inferences that are not obvious to others."

It is not for the Court to substitute its judgment for that of the Commission. As was said in Wallower v. United States, 32 Fed. (2d) 524, "The Commission is an expert body, with a national vision." In Virginia R. R. Co. v. United States, 272 U. S. 658, it is said: "This Court has no concern with the correctness of the Commission's reasoning, with the soundness of its conclusions, or with the alleged inconsistencies in findings made in other proceedings before it."

It is next contended that the order is void because it is based on averages, and does not take into consideration each individual carrier either on the basis of typical evidence or specific evidence, and in this connection it is urged that to make a divisional order valid the Commission must consider whether the divisions are just and reasonable [fol. 1771] from the standpoint of each carrier which participates in the joint rate. We think this contention is completely answered by the Supreme Court in New England Divisions Case, 261 U. S. 184.

It appears from the record that the hearings were conducted on the basis of a group proposition. No attempt was made to have the individual carriers treated separately. All witnesses purported to represent all of the Southwest carrier respondents. One of the witnesses who was in fact connected with the traffic department of the Santa Fe Railway says: "The Southwestern Lines, believing a history in so far as it is available, of the class rates * * * would be helpful in reaching a decision in this proceeding, submit the following: * * *." Another witness connected with the traffic department of the Missouri Pacific testified: "The Southwestern lines found it necessary to assign the testimony with respect to divisions to individual carriers, depending upon the gateways or states of the Southwest in which their line is more vitally interested. * * * My testimony will therefore include all of the interested Southwestern lines in connection with the divisions via the several gateways and Southwestern states previously mentioned."

These are indicative of the manner in which the peti-
[fol. 1772] tioners presented the case before the Commission. At no time during the proceedings before the Commission was any claim made that the Commission was without authority to deal with the case on a group basis. In fact, this question was not even presented to the Commission in the petition for rehearing. The suggestion that the petition filed asking the Commission to make additional Southwestern carriers parties was tantamount to an objection to the consideration of this matter on the group basis is, we think, without force. There is no claim in this petition that the Commission was without jurisdiction because it failed to name additional carriers, and the basis for the petition was that unless all the roads were made respondents, those which were respondents would have difficulty with their connections in arranging subdivisions of revenue in the event of an order by the Commission changing the divisions. Until the present action was commenced the petitioners did not indicate in any way that they objected to the handling of the case on a group basis. In the New England Divisions Case, supra, among other things, it is said:

"Obviously Congress intended that a method should be pursued by which the task which it imposed upon the Commission could be performed. The number of carriers which might be affected by an order of the Commission, if the power granted were to be exercised fully, might far exceed six hundred; the number of rates involved, many millions. [fol. 1773] The weak roads were many. The need to be met was urgent. To require specific evidence, and separate adjudication, in respect to each division of each rate of each carrier, would be tantamount to denying the possibility of granting relief. We must assume that Congress knew this; and that it knew also that the Commission had been confronted with similar situations in the past and how it had dealt with them. * * * That there is no constitutional obstacle to the adoption of the method pursued is clear. Congress may, consistently with the due process clause, create rebuttable presumptions. Mobile, Jackson & Kansas City R. R. Co. v. Tunipseed, 219 U. S. 35; Lindsley v. Natural Carbonic Gas Co., 220 U. S. 61; and shift the

burden of proof. Minneapolis & St. Louis R. R. Co. v. Railroad & Warehouse Commission, 193 U. S. 53. It might, therefore, have declared in terms, that if the Commission finds that evidence introduced is typical of traffic and operating conditions, and of the joint rates and divisions, of the carriers of a group, it may be accepted as prima facie evidence bearing upon the proper divisions of each joint rate of every carrier in that group. Congress did so provide, in effect, when it imposed upon the Commission the duty of determining the divisions. For only in that way could the task be performed. As pointed out in Railroad Commission of Wisconsin v. Chicago, Burlington & Quincy R. R. Co., 257 U. S. 563, serious injustice to any carrier could be avoided, by availing of the saving clause which allows any one to except itself from the order, in whole or in part on proper showing."

The Commission's order does not preclude independent Southwestern Lines from hereafter showing to the Commission any injustice that may result from its application. By its terms it is to remain in effect until the further order of the Commission. We are warranted in assuming that [fol. 1774] the order in this case is based upon evidence which the Commission assumed was typical in character and ample in quantity to justify the finding made as to each division of each rate of every carrier. It is well established that individual rates or divisions which are typical of all, afford a proper basis for a finding as to any one. The record in this case shows every essential mentioned by the Supreme Court in New England Divisions cases, 261 U. S. 184, Orient Divisions Case, 256 U. S. 274, and Brimstone Divisions Case, 276 U. S. 104.

All of the tariffs in effect at the time of the hearing were stipulated into the record before the Commission. The division sheets put in evidence the application of the divisions contained in these sheets to the rates carried in the tariffs as made in the case of individual shippers, were shown in detail, and evidence of this character was offered both by the representatives of the Western Trunk Lines and representatives of the Southwestern Lines.

It is to be noted that these documents so offered in evidence covered all car load traffic moving in June and Oc-

tober, 1924, over respondent's lines between Western Trunk Line territory and Southwestern territory and showed the total revenue, junction, originating and delivery line, commodity, origin, destination, weight, haul north and south of the junction, revenue as divided, revenue per carrier mile, [fol. 1775] tons hauled one mile, and similar statistical information. With respect to each respondent carrier these statements not only showed typical examples of each division of each rate of every carrier, but showed an actual cross-section of actual traffic moving in the two average months of 1924. In fact, it appears that the statements in evidence were of the same character as the September, 1928, test put in the record before this Court as Exhibit 10, on which the petitioners relied as adequately showing exactly what will happen under the new division prescribed by the Commission's order.

The record is replete with statistical information and statements showing rates and divisions applicable to individual commodities shipped in volume between the two territories. Much of this evidence is reflected in Exhibit I filed in this Court by petitioners. Of the 289 exhibits offered in evidence before the Commission, great numbers of them reflect the very details mentioned in the decisions relied upon by petitioners.

We think it clear that the Commission assumed that the record was ample in quantity and substantially typical to justify the order entered as to each of the carriers, and as before noted, the case would seem to be ruled by the New England Divisions Case, supra, and we think all other contentions of counsel with reference to this question are met [fol. 1776] and answered by the decision in the New England case and no good purpose would be served by a further consideration of the subject.

The contention that because all carriers having mileage in the Western Trunk Line territory and the Southwestern territory were not made respondents it was impossible for the Commission to make a group order, is answered by the decision in the New England case and the Orient Divisions case, supra. In neither of these cases were all the railroads made parties.

It is urged that there was no testimony before the Commission with regard to the importance to the public of the transportation services of each of respondents, and hence the order cannot be sustained, and that the order is not in the public interest. Paragraph 6 of Section 16 of the Interstate Commerce Act provides that the Commission shall give due consideration, among other things, to "The importance to the public of the transportation services of such carriers." The question of public interest would not be susceptible of direct proof but must be gathered from all the facts and circumstances, and is made up of many factors. The statements and exhibits put in evidence before the Commission would seem to reflect every aspect of the commercial importance of the transportation involved in the hearing. These exhibits include a series of maps showing the lines of the various roads, together with divisional [fol. 1777] groups in the two territories. A casual glance at these maps shows that practically all of the railroad mileage in the central section of the United States is operated by the carriers participating in the hearing. The exhibits show the vast amount of freight handled between the two territories. It appears that in the year 1925 the Western Trunk Line respondents operated over 48,000 miles of railroad and the Southwestern lines operated nearly 49,000 miles of railroad. That the property investment of the Western Trunk Lines was $3,432,475,212 and the property investment of the Southwestern line respondents was $3,403,862,855. That during 1925, the public paid the Western Trunk Lines $867,887,503 for transportation services performed, and likewise paid the Southwestern Lines $863,242,535 for transportation services performed. This is also shown for the three previous years. These lines furnished the railroad transportation in a region comprising nearly one-third of the area of the United States.

It would seem inevitably to follow from this testimony that the railroad transportation service involved was of the utmost public importance and would not require the direct testimony of any witness to this fact. It is a conclusion based upon the facts appearing in this record that cannot be escaped.

The Commission in its opinion says that it had taken into consideration all the circumstances mentioned by the statute so far as the record made it possible so to do. The public

[fol. 1778] being interested in the transportation service involved and the efficiency thereof, it may be assumed that the Commission, in making its order, had in mind that the public interest would be served, and this conclusion, whether wise or imprudent, is based upon evidence in the record and cannot be reviewed by this Court. The Commission found that the divisions were not just, reasonable nor equitable, and having so found, it was authorized under paragraph 6 of Section 15 of the Interstate Commerce Act, on public hearing to change the divisions so as to cure the injustice, unreasonableness and inequality found to exist. The Commission attempted at least by this order to cure this unlawful condition and such a change would certainly be in the public interest. The mere incidental fact that some of the Southwestern lines making a lesser rate of return than some of the Western Trunk Lines may lose money, is not a controlling factor. The same contention was made in the New England Divisions case, supra, in which the Supreme Court sustained the Commission's order.

A general charge that the proceeding was so arbitrary and contrary to the purposes of the Interstate Commerce Act as to be a denial of due process of law is argued by counsel, and in support of this contention it is urged that the order transfers revenue from less prosperous to more prosperous carriers. This has already been discussed and [fol. 1779] we think is controlled by the New England Divisions case. The Western Trunk Line carriers were found by the Commission to be in worse financial condition than the Southwestern Lines, and this finding is not challenged. The order only incidentially affects the revenues of the companies involved and was not entered for the primary purpose of assisting one group of carriers over another group of carriers, but to correct an inequitable and unreasonable division found to exist. Whether or not this order was ill-advised, or whether it will produce a systematic basis of divisions is not for this Court to determine, but was a matter committed by the statute to the judgment of the Commission. In our opinion, the order cannot properly be held to be arbitrary, but is based upon evidence upon which the judgment of the Commission might properly be exercised.

It is also urged by the petitioners that the Commission exceeded its authority in prescribing minimum divisions to

be received by the Western Trunk Line respondents. Paragraph 6 of Section 15 of the Interstate Commerce Act provides that, "The Commission shall by order prescribe the just, reasonable, and equitable divisions thereof to be received by the several carriers." The Commission under this statutory authority was authorized to fix the divisions as it has done. The cases cited by counsel for petitioners [fol. 1780] do not involve divisions, and were in fact decided prior to the enactment of the Transportation Act of 1920.

It is to be observed that the Western Trunk Lines are not complaining of this action of the Commission fixing the minimum divisions that they may receive, and it would not seem to be a matter of which the Southwestern Lines can properly complain.

There is a suggestion that the order of the Commission is confiscatory as to the petitioners. This question does not seem to have been urged before the Commission, and the purpose of the order is not to take from one set of carriers revenue and transfer it upon another. The most that can be claimed as to the evidence on this point is that it shows that certain of the railroads earn less than five and three quarters per cent upon their total investment. This is not a sufficient basis for assailing the order in question, N. P. R. R. Co. v. Dept. of Public Works, 268 U. S. 39. There is no showing that the reduction in their share of revenue arising from traffic moving between the Western Trunk Line territory and the Southwestern territory will operate in any way to confiscate petitioner's property.

Petitioners urge that the refusal of the Commission to grant a rehearing was an abuse of discretion and a denial of due process of law. Ordinarily the granting or denying [fol. 1781] of a petition for rehearing is discretionary. It is apparent that the petition was given careful consideration and some modifications of the order were made pursuant to this application. It cannot be said that the proceeding is lacking in due process of law and the matter is not reviewable here.

The contention that the Commission went outside the record in entering its order is made and the Orient Division Case, 256 U. S. 274 and United States v. Abilene & So. Ry. Co., 265 U. S. 274, are cited in sppport of this contention. It is said by counsel that the Commission

assumed, without evidence, that the book value of the southwestern lines were on a less conservative basis than the book values of the carriers in the Central Western and Northwesten regions. What the Commission in fact said was that in Revenues in Western District, 113 I. C. C. 1, it had said that railroad book values in the southwest were on a less conservative basis than in the central west and northwest regions. The Commission does not so find in this case, and it would seem that it was warranted in referring to its own decisions here and it does not accept such finding as evidence in the case under consideration.

The argument of counsel is therefore based upon a misapprehension of the record. It is also contended that the Commission prescribed a rate prorate based upon percentages of the first class rates under the Southwestern rate [fol. 1782] scale, whereas that scale was not in evidence. But the Commission did not prescribe a rate prorate and it has answered this argument in its second report in answer to the petition for rehearing. There it is said: "This criticism rests upon a misunderstanding of what we did. Our formula was merely a method of adjusting the divisions to what we believed upon the evidence, to be a fair approximation of difference in conditions in the two territories." In other words, this was a part of the mechanism and not a part of the substantive evidence.

The decision was not bottomed upon the southwest scale, but it is the contention of the petitioners that the Commission had no authority to use the scale even as a mechanical device or method for dividing the rates in the proportion warranted by the facts, without first notifying the Southwestern Lines of their intention so to do. This suggestion is entirely without merit.

It is next urged that the Commission did not have before it evidence showing the cost of operation on respondents' lines confined to the Western Trunk Line territory. This argument is not based upon the assumption that the Commission went outside of the record, but that the evidence in the record did not justify the conclusion reached by the Commission. The statistics presented by both groups of carriers were system figures which included the investment and results of operation upon these lines outside of

[fol. 1783] those territories. This was unavoidable and a segregation was found to be impracticable. The point is referred to by the Commission in its second report in the following language:

"Reverting to the criticisms in the petition, we were compelled to use system statistics because the carriers were unable to segregate the interchange traffic and show the respective costs of service for that alone and no offer of such segregated costs is made in the present petition. Moreover, these system figures were voluntarily presented by both groups of carriers as pertinent and important evidence. We were also obliged to use system statistics which spread over into other territories, because of the difficulty of obtaining representative statistics closely confined to the two groups. The Western Trunk Lines did attempt such a segregation and we use the results as shown above as one of the checks upon our conclusions but the Southwestern Lines objected to these figures as not sufficiently representative."

Again the Commission, in its second report, says:

"We realized that the statistics were open to criticism in certain respects and resolved doubts in favor of the carriers whose revenues would be reduced by our finding, i. e., the Southwestern Lines. The final result was not a product of the statistics alone, but was reached after considering all of the pertinent evidence."

It is thus observed that the petitioners offered these statistics in evidence and the conclusion of the Commission is not confined to such evidence. The fact that the statistics cover systems might go to the weight of the testimony but not to its admissibility.

[fol. 1784] It is charged that the Commission went outside of the record in that it gave consideration to certain statistics of the Great Northern, Northern Pacific, Western Pacific and Union Pacific Railroads. Reference to these statistics is made in the second report of the Commission and they were referred to in response to charges made in the petition for rehearing to the effect that the operations of the Western Trunk Lines in territory west

of the Western Trunk Line territory were not carried on under as favorable conditions as were these operations in the Western Trunk Line territory. The use of the figures in the second report does not affect the merits of the Commission's order. The decision had already been made with respect to the divisions involved in this case.

The second report discussed the petition for rehearing and the grounds for denying same, but it modified its first report with respect to overhead traffic handling. These modifications were in no manner affected by the statistics quoted from the Great Northern, Northern Pacific, Western Pacific and Union Pacific roads. The Orient Divisions case relied upon by petitioners condemned the use of evidence necessary to establish the essetnial facts, when such evidence had not been properly introduced, but the statistics here referred to were not so used.

[fol. 1785] It is also claimed that the Commission went outside of the record in assuming that operating conditions upon certain parts of the Wabash and Illinois Central Railroads lying without Western Trunk Line territory were more favorable than operating conditions in Western Trunk Line territory. The matter is referred to by the Commission in its second report in the following words: "The Southwestern lines now object to this statement upon the ground that we assumed without evidence that conditions are more favorable in official territory than in Western Trunk Line territory and that the operations of the Illinois Central in the Mississippi Valley are conducted under more favorable conditions than its operations in Western Trunk Line territory." The first report made no such reference but did say that the Wabash extended beyond the eastern boundary of the Western Trunk Line territory into official territory with its more favorable operating conditions. The Wabash is shown to be an eastern line. In the Orient Divisions Case it is said: "The parts of the annual reports in question were used as evidence of facts which it was deemed necessary to prove, not as a means of verifying facts of which the Commission, like a court, takes judicial notice." Manifestly the Commission's reference to those operating conditions was in the nature of a criticism on the cost figures presented to the Commission, but notwithtsanding this criticism, the

[fol. 1786] figures were accepted. There was no necessity of any proof with respect to the operating conditions on the Wabash Railway in official territory, and the statement complained of did not constitute a finding and the decision is not dependent upon any such alleged assumption as to these operating conditions.

The contention that the density figures for 1927 referred to by the Commission in its first report were not in the record does not seem to be warranted by the record. The report of the Commission shows that "Upon the argument it was stipulated that we might refer in the decision of the case to reports on file with us which had been received since the close of the hearings. Such reports make it possible to compare traffic densities for 1927 computed in the same way as those shown above for 1924."

In the Commission's second report it is said: "The data referred to are incorporated in special reports now secured annually by our Bureau of Statistics. We believe that the stipulation was broad enough to cover these reports." Without further reference to the record, it seems sufficient to say that these records were properly before the Commission.

The propriety of using a mileage scale which assumes a decrease in unit cost as mileage increases, is challenged by counsel for petitioners. This question is not, in our opinion, properly before the Court for review. The Commission's decision in answer to a criticism of the method used, [fol. 1787] in its second report says: "As has already been explained, our rate prorate formula was adopted as a mechanism for dividing the joint rates in the proportions which we found justified by the facts of record. In our opinion it is an appropriate mechanism for that purpose." The argument of counsel is therefore apparently based upon a misapprehension of the use by the Commission of the rate prorate formula.

It is urged that the order should be set aside at least so far as the Chicago, Milwaukee, St. Paul & Pacific Railroad is concerned because that company is a reorganized company coming into being during the proceedings in this case. It succeeded the Chicago, Milwaukee & St. Paul Railway Company and took over the property of that company. The

Chicago, Milwaukee & St. Paul Railway Company went into receivership during the proceedings, and on April 12, 1927, the Chicago, Milwaukee, St. Paul & Pacific Railroad Company filed application with the Commission asking for authority to acquire control of the property of the old company, and this authority was granted January 4, 1928. The property of the two companies was identical and the objection is purely technical. The Chicago, Milwaukee, St. Paul & Pacific Railroad Company has made no objection. Even in the petition for rehearing this point was not urged and it cannot now be fairly considered as a ground for vacating the order.

The contention that the order is vulnerable because it [fol. 1788] prescribes the division of joint rates on traffic to and from points east fo the Indiana-Illinois state line is based upon a misapprehension. The order provides that the shares of joint rates on the overhead traffic shall be determined in accordance with the formula prescribed by the Commission. The oral evidence taken in this Court is to the effect that these rates divide on the Mississippi River and the revenue accruing to the carriers east of the river is eastern revenue and the revenue accruing to the carriers west of the river in western revenue, and that the roads receiving it are known as western carriers. In its first report the Commission held that on the overhead traffic in question the shares accruing to the western lines should be determined on a formula which the Commission prescribed. The order, particularly in connection with the oral testimony offered, is not uncertain, it does not purport to affect the revenue accruing to the so-called eastern lines, and hence it was not necessary that the eastern lines should have been made parties to the proceeding. There is no merit in this contention.

Charging that the decision of the Commission is based upon such incompetent and unreliable evidence and conjectures as to render it wholly void, counsel present an extended argument, citing many authorities. Many fragmentary portions of the Commission's decision are quoted, and many criticisms are indulged in, based upon the al- [fol. 1789] leged uncertainties of the Commission's decision. It is true that the Commission frankly admits that it

could not possibly reach a definite statement of relative cost of handling the particular traffic involved in the two territories. This was an impossibility which should not, however, deprive the Commission of its authority and duty to act. The Commission considered all the facts of record, which presumably were such facts as could be submitted by either group, and if the facts were not more definite it was due to the character of the testimony presented. The doctrine announced in the Northern Pacific Case, 268 U. S. 39, is not apposite. In that case an attack was made on an order of the Commission and the railroads were under the necessity of showing by specific proof applicable to the traffic affected by the order, that the rates were confiscatory. However, no such burden rested upon the Commission in the instant case. It presumably gave proper consideration to all the facts adduced and based upon these facts it rendered its decision. It is not suggested that more definite, satisfactory or persuasive evidence could have been offered. The Commission in its report says: "Obviously it is impossible to employ any mathematical formula which will operate with precision, and it is necessary to be guided by general judgment after considering and weighing as well as we can the evidence before us." This we [fol. 1790] take it properly describes the duty of the Commission, and presumably nobody was better qualified to act upon the evidence than this Commission, with its expert knowledge and "national vision."

As has already been noted, the Commission is not bound by technical rules of procedure or evidence, and it is not expected nor required that its decisions can be tested by any mathematically correct rules. It was therefore not incumbent upon the Commission to produce a definite, positive statement of the difference in cost of handling traffic in the two territories involved. Neither was it essential that it state the exact differences in the traffic density and weight to be attached thereto, but the Commission is endowed with power and authority to consider and weigh all the evidence, facts and circumstances, apply its expert knowledge and experience to the situation, and reach a conclusion and judgment based thereon.

We have carefully considered all of the other objections urged to the Commission's order, but a discussion thereof

would unduly extend this opinion. The Authority exercised by the Commission was so exercised in conformity to the requirements of due process of law, was within the broad discretion vested in the Commission, and its order is sustained and the petition dismissed.

[File endorsement omitted.]

[fols. 1791-1793] Clerk's certificate to foregoing transcript omitted in printing.

[fol. 1794] Orders extending time to file transcript of record and to docket case to February 10, 1930, omitted in printing.

[fol. 1795] IN SUPREME COURT OF THE UNITED STATES

No. 642

STATEMENT OF POINTS TO BE RELIED UPON AND DESIGNATION TO PRINT ENTIRE RECORD—Filed Feb. 14, 1930

Come now the appellants and adopt their assignments of error as their statement of the points to be relied upon, and [fol. 1796] represent that the whole of the record as filed (not including the original exhibits which were sent up separately from the record) is necessary for the consideration of the case.

F. H. More, W. E. Davis, E. T. Miller, M. G. Roberts, J. R. Bell, G. H. Muckley, H. H. Larimore, C. S. Burg, J. R. Turney, Robert Thompson, Solicitors for Appellants.

Service of the foregoing statement of points to be relied upon and designation of the parts of the record to be

printed, by appellants, and receipt of a copy thereof are hereby admitted and acknowledged by the following:

The United States of America, by Elmer B. Collins, Special Asst. to the Attorney General, this 13th day of February, 1930. Interstate Commerce Commission, by Edward M. Reidy, Asst. Chief Counsel, this 13th day of February, 1930. William W. Wheelock and William G. Bierd, Receivers of The Chicago and Alton Railroad Company, Chicago and Eastern Illinois Railway Company, Chicago and North Western Railway Company, Chicago, Burlington and Quincy Railroad Company, Chicago, Great Western Railroad Company, Chicago, St. Paul, Minneapolis and Omaha Railway Company, Illinois Central Railroad Company, W. H. Bremner, Receiver of Minneapolis & St. Louis Railroad Company; Minneapolis, St. Paul & Sault Ste. Marie Railway Company, and Wabash Railway Company, by Frank H. Towner, this 11th day of February, 1930.

[fol. 1797] [File endorsement omitted.]

[fol. 1798] IN THE SUPREME COURT OF THE UNITED STATES

No. 643

STATEMENT OF POINTS TO BE RELIED UPON AND DESIGNATION TO PRINT ENTIRE RECORD—Filed Feb. 21, 1930

In suport of their cross-appeal, the United States and the Interstate Commerce Commission will rely upon the following point:

The District Court erred in issuing a stay order, restraining enforcement of the Commission's orders of June 10, 1929, July 25, 1929, and September 24, 1929, pending appeal to and determination of the issues in the case by this Court.

Only the written opinion, and the "order for stay of the order of the Interstate Commerce Commission" respectively rendered and issued by the District Court, will be necessary [fol. 1799] in the consideration of the point raised by their

cross-appeal. The entire record, however, is being printed by appellants, the Beaumont, Sour Lake & Western Railway Company, et al., in connection with their appeal.

William D. Mitchell, Attorney General. John Lord O'Brian, Assistant to the Attorney General. Elmer B. Collins, Special Assistant to the Attorney General. E. M. Reidy, Assistant Chief Counsel, Interstate Commerce Commission.

Service of the foregoing Statement of Points, and receipt of a copy thereof are hereby admitted and acknowledged.

[fol. 1800] [File endorsement omitted.]

[Endorsed on cover:] File No. 34,773, 34,774. W. Missouri D. C. U. S. Term No. 642. The Beaumont, Sour Lake & Western Railway Company, The Fort Worth and Denver City Railway Company, et al., appellants, vs. The United States of America, The Interstate Commerce Commission, et al. Term No. 643. The United States of America and The Interstate Commerce Commission, appellants, vs. The Beaumont, Sour Lake & Western Railway Company, The Fort Worth and Denver City Railway Company, et al. Filed February 8, 1930. File No. 34,773, 34,774.

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CHARLES ELMORE

No. 44

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1929.

THE BEAUMONT, SOUR LAKE & WESTERN RAILWAY COMPANY, ET AL., APPELLANTS,

VS.

THE UNITED STATES OF AMERICA, ET AL., APPELLEES.

APPEAL FROM UNITED STATES DISTRICT COURT FOR THE WESTERN DIVISION OF THE WESTERN DISTRICT OF MISSOURI.

MOTION BY APPELLANTS TO ADVANCE.

F. H. Moore,
W. E. Davis,
E. T. Miller,
M. G. Roberts,
J. R. Bell,
G. H. Muckley,
H. H. Larimore,
C. S. Burg,
J. R. Turney,
Robert Thompson,
Solicitors for Appellants.

Samuel W. Moore,
Of Counsel.

No. 642.

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1929.

THE BEAUMONT, SOUR LAKE & WESTERN RAILWAY COMPANY, ET AL., APPELLANTS,

VS.

THE UNITED STATES OF AMERICA, ET AL., APPELLEES.

APPEAL FROM UNITED STATES DISTRICT COURT FOR THE WESTERN DIVISION OF THE WESTERN DISTRICT OF MISSOURI.

MOTION BY APPELLANTS TO ADVANCE.

Come now the appellants in the above entitled cause and move that the said cause be advanced for an early hearing, and in support of their motion, make the following brief statement of the matters involved and the reasons relied upon for such advancement.

The question involved in the case is the validity of an order entered by the Interstate Commerce Commis-

sion in a proceeding, brought on the Commission's own initiative, and designated as Docket No. 15234, *In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories* (reported in 148 I. C. C. 457, and 156 I. C. C. 94), in which the Commission prescribed the divisions of the revenue from the joint rates upon traffic between points on the lines of certain railroads in Southwestern territory and points on certain railroads in Western Trunk Line territory, as such territories were described by the Commission, and also between points on the said railroads in Southwestern territory passing over one of the said railroads in Western Trunk Line territory in transportation to or from points in certain Eastern territory. Appellants were plaintiffs below, and brought suit under the provisions of the Urgent Deficiencies Act of October 22, 1913, Ch. 32, 38 Stat. 208, 219-220 (U. S. C. tit. 28, secs. 41 (28) 47 and 47-a), to enjoin, set aside, annul and suspend the said order. Plaintiffs alleged that the said order is erroneous, arbitrary, unreasonable, unlawful, unsupported by the findings of fact, unsupported by any evidence in certain material matters, and unsupported by substantial evidence in other material matters, repugnant to the provisions of the Interstate Commerce Act, and particularly of sub-division 6 of Section 15 thereof, and constitutes a denial of due process of law, in violation of the Fifth Amendment to the Constitution of the United States, as fully specified in the plaintiff's amended petition and in the assignment of errors.

The District Court denied all the contentions of the plaintiffs and entered an order or decree dismissing

plaintiffs' petition, from which action plaintiffs have taken this appeal to this court. The case was docketed in this court on February 8th, 1930, and the jurisdictional statement for appellants was filed on or about March 6th, 1930. The transcript of the record will probably be printed by March 22, 1930.

The reasons why the said case should be advanced are the following:

It is provided in the said Urgent Deficiencies Act of October 22, 1913, that the final judgment or decree of a District Court in such cases may be reviewed by the Supreme Court of the United States upon appeal, and that appeals in such cases shall have priority in hearing and determination, over all other causes except criminal causes, in this court.

The said order of the Interstate Commerce Commission became effective, according to its terms, on December 1, 1929. If valid, the order will require the payment of increased divisions in the sum of $3,000,000 or more per annum by the appellants to certain railroad companies in Western Trunk Line territory. Although the District Court granted an order staying, as to appellants, the enforcement and operation of the said order of the Interstate Commerce Commission pending this appeal to this court, it is nevertheless very important that as early a decision as practicable, of the questions involved in the appeal, may be had, in order that it may be known whether the said appellants must suffer the said reduction in their revenues, applying from December 1, 1929.

Furthermore, it is important that the questions presented on this appeal shall be promptly determined, since there are other proceedings, involving divisions of revenue from joint rates, pending before the Commission, which involve the same fundamental principles.

Wherefore, appellants move that the case be set down for argument at as early a date as practicable.

Respectfully submitted,

F. H. Moore,
W. E. Davis,
E. T. Miller,
M. G. Roberts,
J. R. Bell,
G. H. Muckley,
H. H. Larimore,
C. S. Burg,
J. R. Turney,
Robert Thompson,
Solicitors for Appellants.

Samuel W. Moore,
Of Counsel.

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No. 44

Supreme Court
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CHARLES ELMORE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1929.

THE BEAUMONT, SOUR LAKE & WESTERN RAILWAY CO., ET AL., APPELLANTS,

VS.

THE UNITED STATES OF AMERICA, ET AL., APPELLEES.

JURISDICTIONAL STATEMENT FOR APPELLANTS UNDER RULE 12.

F. H. Moore,
W. E. Davis,
E. T. Miller,
M. G. Roberts,
J. R. Bell,
G. H. Muckley,
H. H. Larimore,
C. S. Burg,
J. R. Turney,
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Solicitors for Appellants.

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Of Counsel.

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No. 642.

SUPREME COURT OF THE UNITED STATES

THE BEAUMONT, SOUR LAKE & WESTERN RAILWAY COMPANY, ET AL., APPELLANTS,

VS.

THE UNITED STATES OF AMERICA, ET AL., APPELLEES.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DIVISION OF THE WESTERN DISTRICT OF MISSOURI.

JURISDICTIONAL STATEMENT FOR APPELLANTS UNDER RULE 12.

The appellants in support of the jurisdiction of this court to review the above entitled cause on appeal respectfully represent:

A. The Statutory Provisions Sustaining Jurisdiction.

Section 238 of the Judicial Code, as amended by the Act of February 13, 1925, Ch. 229, 43 Stat. 936, 938 (U. S. C. Tit. 28, Sec. 345), provides as follows:

> A direct review by the Supreme Court of an interlocutory or final judgment or decree of a District

Court may be had where it is so provided in the following Acts or parts of Acts, and not otherwise:

* * *

(4) So much of "An Act making appropriations to supply urgent deficiencies in appropriations for the fiscal year 1913, and for other purposes," approved October 22, 1913, as relates to the review of interlocutory and final judgments and decrees in suits to enforce, suspend, or set aside orders of the Interstate Commerce Commission other than for the payment of money.

The Urgent Deficiencies Act of October 22, 1913, Ch. 32, 38 Stat. 208, 219-220 (U. S. C. Tit. 28, Sec. 41 (28), 47 and 47-a) confers jurisdiction upon the District Court of suits brought to enjoin, set aside, annul, or suspend "in whole or in part any order of the Interstate Commerce Commission," and, with respect to review by the Supreme Court of decrees entered in such suits, provides as follows:

> A final judgment or decree of the District Court may be reviewed by the Supreme Court of the United States if appeal to the Supreme Court be taken by an aggrieved party within sixty days after the entry of such final judgment or decree, and such appeals may be taken in like manner as appeals are taken under existing law in equity cases.

B. Date of Decree, and Date of Application for Appeal.

The final decree sought to be reviewed was entered on November 27, 1929 (R. 60).*

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*References are made to pages of the certified unprinted record prepared by the clerk of the District Court and on file with the clerk of this court, as the record has not yet been printed.

The application for appeal was presented on November 27, 1929 (R. 60, 61), together with an assignment of errors (R. 60, 64). An order granting the appeal was entered November 30, 1929 (R. 80), appeal bond approved and filed on the same date (R. 84-88), and citation issued, and due and timely service acknowledged (R. "A").

The time for completing the transcript and docketing the case in this court was extended by the lower court to February 1, 1930, by order made on December 26, 1929 (R. 104), and to February 10, 1930, by order made on January 22, 1930 (R. 1750), and the cause was docketed in this court on February 8, 1930.

C. Nature of the Case and Rulings Below.

The appellants, who are carriers operating in the Southwestern territory, were plaintiffs below, and will be referred herein as "the plaintiffs." They appealed from the decree of the lower court, consisting of three judges under the Urgent Deficiencies Act, which dismissed their petition brought to enjoin, set aside, annul and suspend an order of the Interstate Commerce Commission made on June 10, 1929, in the proceeding before it designated as Docket No. 15234, prescribing a new basis of divisions of revenue from joint rates on certain specified traffic. The order was afterwards modified and its effective date extended. The original order and its subsequent modifications are herein for convenience referred to as "the order."

The Commission, in the said proceeding, which was instituted by it, upon its own initiative, and which re-

sulted in the order in question, reported in 148 I. C. C. 457 and 156 I. C. C. 94, purported to act under authority contained in paragraph (6) of Section 15 of the Interstate Commerce Act, which reads as follows:

> Whenever, after full hearing upon complaint or upon its own initiative, the Commission is of opinion that the divisions of joint rates, fares, or charges, applicable to the transportation of passengers or property, are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers parties thereto (whether agreed upon by such carriers or any of them, or otherwise established), the Commission shall by order prescribe the just, reasonable, and equitable divisions thereof to be received by the several carriers, and in cases where the joint rate, fare, or charge was established pursuant to a finding or order of the Commission and the divisions thereof are found by it to have been unjust, unreasonable, or inequitable, or unduly preferential or prejudicial, the Commission may also by order determine what (for the period subsequent to the filing of the complaint or petition or the making of the order of investigation) would have been the just, reasonable, and equitable divisions thereof to be received by the several carriers, and require adjustment to be made in accordance therewith. In so prescribing and determining the divisions of joint rates, fares and charges, the Commission shall give due consideration, among other things, to the efficiency with which the carriers concerned are operated, the amount of revenue required to pay their respective operating expenses, taxes, and a fair return on their railway property held for and used in the service of transportation, and the importance to the public of the transportation services of such carriers and also whether any particular participating carrier is an originating, intermediate, or delivering line, and any other fact or circumstance which would ordinarily,

without regard to the mileage haul, entitle one carrier to a greater or less porportion than another carrier of the joint rate, fare or charge.

After a hearing, the Commission found that the existing divisions of the revenue from joint rates applying between certain points on certain carriers in Southwestern territory and certain points on certain carriers in Western Trunk Line territory, and between certain points on certain carriers in Southwestern territory, passing over certain Western Trunk Line carriers, to and from certain Eastern territory, were unjust and inequitable; and it prescribed a new basis of divisions of such joint rates between said points, which it declared to be just, reasonable and equitable. Southwestern territory and Western Trunk Line territory are defined by the Commission (148 I. C. C. 458). The Commission called the carriers operating in Western Trunk Line territory, who were parties to the proceeding, the complainants, and the carriers operating in Southwestern territory, who were parties to the proceeding, defendants. All parties are thus listed (148 I. C. C. 458, 459).

The order provided that on said traffic moving via the gateways of Kansas City and St. Louis, Mo., and East St. Louis, Cairo, Gale and Thebes, Illinois, between points on the lines of defendants and points on the lines of the complainants, new divisions south and north of said gateways should be determined by dividing said joint rates in proportion to assumed rates for the two hauls, the assumed rate for the distance covered by the haul south of the gateway to be the first-class rate for that distance under the southwestern scale (which scale

was established, in Southwestern territory, by the Commission after the hearings in this proceeding were finished), and the assumed rate for the distance covered by the haul north of the gateway to be 80 per cent, when the gateway is Kansas City, and 75 per cent when the gateway is St. Louis, East St. Louis, Cairo, Gale, or Thebes, of the first-class rate for that distance under the same scale; that on said traffic in the remainder of the Western Trunk Line territory, eliminating the States of Illinois and Wisconsin, the new divisions should be determined by dividing the joint rates in proportion to assumed rates for the two hauls, the assumed rate for the distance covered by the haul south of the gateway to be the first-class rate for that distance under the said southwestern scale, and the assumed rate for the distance covered by the haul north of the gateway to be 87 per cent of the first-class rate for that distance under the same scale; that on said traffic between points on the lines of the defendants, and points in the teritory east of the Illinois-Indiana state line, and on and north of the Ohio River and the line formed by the Chesapeake & Ohio, Norfolk & Western, and Virginian between Cincinnati, Ohio, and Norfolk, Va., the divisions of the shares of said joint rates accruing to the defendants should be determined by dividing such shares in proportion to assumed rates for the two hauls, the assumed rate for the distance covered by the haul south of the gateway to be the first-class rate for that distance under the said southwestern scale, and the assumed rate for the distance covered by the haul of Western Trunk Line defendants north of the gateway to be 80 per cent, when the gateway is Kansas

City, and 75 per cent, when the gateway is St. Louis, East St. Louis, Cairo, Gale or Thebes, of the first-class rate for that distance under the same scale, minus 15 cents; and that where differentials are used in the construction of joint rates, such differentials should be deducted before prorating, and added to the amounts determined by the prorating process and accruing to defendants in the regions where the differentials apply.

The effect of the new divisions is to decrease the revenues of the lines of railroad in the Southwestern territory which are parties to the proceeding, and to increase correspondingly the revenues of such Western Trunk Line carriers as are parties. If the order is enforced, it will take $3,000,000 or more of revenue per annum from such Southwestern railroads, and transfer that amount of revenue to Western Trunk Line carriers.

Plaintiffs contended in the lower court, and will contend here, that the Commission's order prescribing a new basis of divisions is erroneous, arbitrary, unreasonable, unlawful, unsupported by the findings of fact, unsupported by any evidence in certain material matters, and unsupported by substantial evidence, in other material matters, repugnant to the provisions of the Interstate Commerce Act, and particularly to subdivision 6 of section 15 thereof, and constitutes a denial of due process of law in violation of the Fifth Amendment to the Constitution of the United States, for reasons which may be summarized generally as follows:

1. The Commission could not lawfully reduce the divisions of the carriers in the Southwestern territory

without taking into consideration the situation, financially and otherwise, of each individual carrier, a party to the joint rates; and this it failed to do. It dealt with the Southwestern carriers collectively as a group, and with the Western Trunk Line carriers collectively as a group. There was no finding or evidence typical of all the carriers in either group; on the contrary, the evidence affirmatively disclosed that conditions of the carriers in each group were so dissimilar that no common divisions order could be made which would result in substantial justice. The arbitrary character of the order is made manifest by the fact that its effect is to take revenues from certain carriers in the Southwestern group, with small earnings, and in some cases operating at a deficit, and to hand them over to lines, such as the Burlington and Illinois Central, which are among the strongest roads, financially, in the country.

2. The order of the Commission was based on no rational and lawful plan:

(a) Because, although the said proceeding purported to be for the purpose of fixing divisions of the joint rates applying between two territories, it included only a part of the joint rates between those territories, and made only a part of the railroads, in said territories, parties respondent in said proceeding; and

(b) Because, although the findings of the Commission were with relation to the financial needs of the carriers, the order of the Commission grouped the carriers and prescribed divisions between such groups, without any relation to the financial abilities and necessities of the individual carriers.

3. The Commission found that the Southwestern railroads, as a group, require a greater average revenue of 17 to 20 per cent per ton per mile than the Western Trunk Line railroads as a group, in order to pay operating expenses, taxes, other like charges and a fair return on investment, and then, without any findings or evidence supporting such action, prescribed and ordered a basis of divisions which would yield to the Southwestern railroads only 9 per cent greater revenue per ton mile, on the average, than to the Western Trunk Lines.

4. The Commission's decision was based upon such incomplete, general, and unreliable evidence and conjectures (such as the inclusion of statistics of operating revenues and expenses of railroads which were not made parties to the said proceeding, and of statistics of operating revenues and expenses from all traffic and of the entire lines of railroad of said respondents, instead of being confined to the traffic transported under the joint rates involved in said proceeding, and to the portions of the lines of respondents which are located in Western Trunk Line territory and Southwestern territory, respectively) as prevented the making of reasonably accurate findings as the basis for an order.

5. The Commission's reports in the said proceeding show that none of said plaintiffs is earning a fair return on its investment, and the said order of the Commission, as to each of said plaintiffs is therefore confiscatory.

6. The Commission, as to material matters and issues, made findings and entered its order upon assump-

tions of fact not supported by the evidence before it, and considered matters which were not introduced in evidence.

7. The Commission prescribed divisions under a system or formula which was not submitted to nor within the contemplation of the parties to the proceeding, and was not based upon or supported by any evidence in said proceeding, and arbitrarily refused to grant to plaintiffs (respondent Southwestern lines, before the Commission) a rehearing in order that they might have an opportunity to show that said formula or method was based upon assumptions contrary to fact.

8. The findings and reports of the Commission show that its said order is contrary to the public interest.

The reasons are more fully stated in plaintiffs' amended petition (R. 18) and in the assignment of errors (R. 60, 64).

The lower court denied each and all of the contentions made by the plaintiffs and entered a decree dismissing the petition, and this appeal is brought to review its action in that behalf.

D. Cases Believed to Sustain the Jurisdiction of this Appeal.

Akron, C. & Y. Ry. Co. v. *United States,* 261 U. S. 184, 189.

United States v. *Abilene & Southern Ry. Co.,* 265 U. S. 274, 280.

Brimstone Railroad & Canal Co. v. *United States,* 276 U. S. 104.

all of which cases involved similar appeals from orders, of the Commission fixing divisions of joint rates; also

St. Louis & O'Fallon Railway Co. v. *United States,* 279 U. S. 461, 482.

Baltimore & Ohio R. R. Co. v. *United States,* 279 U. S. 781, 784.

Virginian Railway Co. v. *United States,* 272 U. S. 658, 663.

Chicago Junction Case, 264 U. S. 258.

Louisville & Nashville R. R. Co. v. *United States,* 238 U. S. 1.

United States v. *The Baltimore & Ohio R. R. Co.,* 225 U. S. 306.

We respectfully submit that this court has jurisdiction of this appeal by virtue of Section 238 of the Judicial Code as amended by the Act of February 13, 1925.

Kansas City, Missouri, March 3, 1930.

Respectfully submitted,

F. H. Moore,
W. E. Davis,
E. T. Miller,
M. G. Roberts,
J. R. Bell,
G. H. Muckley,
H. H. Larimore,
C. S. Burg,
J. R. Turney,
Robert Thompson,
Solicitors for Appellants.

Samuel W. Moore,
Of Counsel.

Supreme Court, U. S.
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FILE COPY

No. 45

In the Supreme Court of the United States

OCTOBER TERM, 1929

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, CROSS-APPELLANTS

v.

THE BEAUMONT, SOUR LAKE & WESTERN RAILWAY COMPANY, ET AL.

CROSS-APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF MISSOURI

STATEMENT OF JURISDICTION

In the Supreme Court of the United States

OCTOBER TERM, 1929

No. 643

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, cross-appellants

v.

THE BEAUMONT, SOUR LAKE & WESTERN RAILWAY COMPANY, et al.

CROSS-APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF MISSOURI

STATEMENT OF JURISDICTION

In compliance with Rule 12 of this Court, the cross-appellant submits herewith its statement showing the basis of this Court's jurisdiction:

A

STATUTES

Section 238 of the Judicial Code as amended by the Act of February 13, 1925, c. 229, 43 Stat. 936, 938, paragraph (4) (U. S. C. Title 28, Sec. 345).

Urgent Deficiencies Act of October 22, 1913, c. 32, 38 Stat. 208, 219, 220 (U. S. C. Title 28, Sec. 47).

B

DATE OF DECREE AND APPLICATION FOR APPEAL

The final decree (R. 60)[1] sustaining the order of the Interstate Commerce Commission was entered November 27, 1929. The order allowing the appeal (R. 80) was entered November 30, 1929. The "order for stay of the order of the Interstate Commerce Commission," was entered November 30, 1929. (R. 81.) The application for the cross appeal therefrom was filed December 23, 1929 (R. 101); the order allowing cross appeal was entered December 23, 1929 (R. 103); the cross appeal was docketed in this Court February 8, 1930.

C

NATURE OF THE CASE

The suit was brought to enjoin and annul an order of the Interstate Commerce Commission issued June 10, 1929, in proceedings entitled "No. 15234, In the Matter of Divisions of Freight Rates In Western and Mountain-Pacific Territories," 156 I. C. C. 94. The order prescribed the just and reasonable divisions of freight rates to be received by the common carriers named therein.

The specially constituted District Court for the Western District of Missouri, in a written opinion

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[1] All references to the record are to the pages of the certified unprinted record prepared by the Clerk of the District Court and on file with the Clerk of this Court. The record has not yet been printed.

(R. 1758), held that the order was valid in all respects, and dismissed the petition for injunction.

Upon the petitioners' application, the Court granted and issued the "order for stay of the order of the Interstate Commerce Commission," pending petitioners' appeal to this Court. From the "stay order" the cross appeal was prosecuted.

D

CASES SUSTAINING JURISDICTION

Virginian Railway Co. v. *United States*, 272 U. S. 658.

St. Louis & O'Fallon Ry. Co. v. *United States*, 279 U. S. 461.

WILLIAM D. MITCHELL,
Attorney General.

JOHN LORD O'BRIAN,
Assistant to the Attorney General.

ELMER B. COLLINS,
Special Assistant to the Attorney General.

EDWARD M. REIDY,
Assistant Chief Counsel, Interstate Commerce Commission.

MARCH, 1930.

U. S. GOVERNMENT PRINTING OFFICE: 1930

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SEP 29 1930

IN THE

Supreme Court of the United States

OCTOBER TERM, 1930.

No. 44.

THE BEAUMONT, SOUR LAKE & WESTERN RAILWAY COMPANY, *et al.*,
Appellants,

v.

THE UNITED STATES OF AMERICA, *et al.*,
Defendants.

BRIEF ON BEHALF OF APPELLANTS.

F. H. MOORE,
W. E. DAVIS,
E. T. MILLER,
M. G. ROBERTS,
J. R. BELL,
G. H. MUCKLEY,
H. H. LARIMORE,
C. S. BURG,
J. R. TURNEY,
ROBERT THOMPSON,
Solicitors for Appellants.

SAMUEL W. MOORE,
of Counsel.

September 29, 1930.

Pandick Press, Inc., 22 Thames St., New York, U. S. A.

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Argument:

I. The Commission failed to obey the command of the statute, and exceeded its statutory power in basing its order upon average conditions of the two groups of carriers, and not upon the condition of each individual carrier to be shown by specific evidence applicable to it or by typical evidence applicable to all. The evidence and the reports of the Commission show conclusively that the conditions of the individual carriers in each group are so widely dissimilar that substantial justice cannot be done to individual carriers by an order based on averages, and without consideration of each individual carrier as a separate problem. The Commission's order, therefore, is invalid, and should be set aside..... 29

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(c) The Commission's order in question, if enforced, will bring about results so illogical, unjust and arbitrary as to be beyond the Commission's power and authority 43

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(e) As the Commission failed to follow the requirement of the statute, and exceeded its statutory power in basing its divisions upon group or average conditions, its order is invalid and should be set aside 55

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1930.

No. 44.

THE BEAUMONT, SOUR LAKE & WESTERN RAILWAY COMPANY, THE FORT WORTH & DENVER CITY RAILWAY COMPANY, THE GALVESTON, HARRISBURG & SAN ANTONIO RAILWAY COMPANY, HOUSTON & SHREVEPORT RAILROAD COMPANY, HOUSTON & TEXAS CENTRAL RAILROAD COMPANY, THE HOUSTON EAST & WEST TEXAS RAILWAY COMPANY, INTERNATIONAL-GREAT NORTHERN RAILROAD COMPANY, THE KANSAS CITY SOUTHERN RAILWAY COMPANY, LOUISIANA & ARKANSAS RAILWAY COMPANY, LOUISIANA RAILWAY & NAVIGATION COMPANY, LOUISIANA WESTERN RAILROAD COMPANY, MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, MISSOURI-KANSAS-TEXAS RAILROAD COMPANY OF TEXAS, MISSOURI PACIFIC RAILROAD COMPANY, MORGAN'S LOUISIANA & TEXAS RAILROAD & STEAMSHIP CO., NEW ORLEANS, TEXAS & MEXICO RAILWAY COMPANY, THE ST. LOUIS, BROWNSVILLE & MEXICO RAILWAY COMPANY, ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY, ST. LOUIS, SAN FRANCISCO & TEXAS RAILWAY COMPANY, ST. LOUIS SOUTHWESTERN RAILWAY COMPANY, ST. LOUIS SOUTHWESTERN RAILWAY COMPANY OF TEXAS, SAN ANTONIO & ARANSAS PASS RAILWAY COMPANY, TEXAS AND NEW ORLEANS RAILROAD COMPANY, and THE TEXAS & PACIFIC RAILWAY COMPANY,

Appellants,

vs.

THE UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, WILLIAM W. WHEELOCK and WILLIAM G. BIERD, Receivers of THE CHICAGO & ALTON RAILROAD COMPANY; CHICAGO & EASTERN ILLINOIS RAILWAY COMPANY, CHICAGO & NORTH WESTERN RAILWAY COMPANY, CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY, CHICAGO GREAT WESTERN RAILROAD COMPANY, CHICAGO, ST. PAUL, MINNEAPOLIS & OMAHA RAILWAY COMPANY, ILLINOIS CENTRAL RAILROAD COMPANY, W. H. BREMNER, Receiver of MINNEAPOLIS & ST. LOUIS RAILROAD COMPANY; MINNEAPOLIS, ST. PAUL & SAULT STE. MARIE RAILWAY CO., and WABASH RAILWAY COMPANY,

Appellees.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DIVISION OF THE WESTERN DISTRICT OF MISSOURI.

BRIEF ON BEHALF OF APPELLANTS.

Statement.

1. References to official reports of decisions of the lower court and the Commission.

The official report of the district court's decision in this case appears in 36 F. (2d), at pages 789, *et seq.*, and in the record (R. 1318-1339). The reports of the Commission and the order whose validity is attacked herein are contained in two reports, viz., I. C. C. Docket No. 15234, IN THE MATTER OF DIVISIONS OF FREIGHT RATES IN WESTERN AND MOUNTAIN-PACIFIC TERRITORIES, 148 I. C. C. 457 and 156 I. C. C. 94 (R. 55-109). The order appears at pages 109-113 *of the record.*

2. Proceedings before the Commission.

The Commission's order which is challenged in this case was entered on June 10, 1929. It purported to fix and readjust divisions between certain carriers known as the Western Trunk Lines and certain carriers known as the Southwestern lines. The effect of the order is to take approximately $3,000,000 per annum from the Southwestern carriers, regardless of their widely varying degrees of financial strength and weakness, and turn it over to both the strong and the weak Western Trunk Line carriers, some of whom, such as the Burlington and the Illinois Central, are among the most prosperous roads in the country (R. 1226). This amount is 7.3 per cent. of the total annual

revenue heretofore received by the Southwestern respondents from their divisions on the traffic to which the order applies.

The proceedings before the Commission resulting in said order will now be briefly summarized.

On the 8th day of October, 1923, the Interstate Commerce Commission, "having under consideration the matter of divisions of freight rates and charges in Western and Mountain-Pacific territories", entered, on its own initiative, upon an investigation,

> for the purpose of determining whether the divisions of said rates or charges are, and for the future will be, unjust, unreasonable, inequitable or unduly preferential or prejudicial as between or among the respondent carriers hereinafter named, within the meaning of paragraph (6) of Section 15 of the Interstate Commerce Act, with a view to prescribing just, reasonable and equitable divisions of rates and charges to be received by the several carriers in the event that existing divisions are determined to be unjust, unreasonable, inequitable or unduly preferential or prejudicial (R. 1169-1171).

On August 26, 1925, the Interstate Commerce Commission entered upon the portion of the investigation which is involved in the present suit. The order entered on that date (R. 1173), provided:

> Evidence will be received only with respect to divisions between Western Trunk Line territory and Southwestern territory.

On September 8, 1925, the Commission made a further order, in which it defined the terms "Southwestern territory" and "Western Trunk Line territory".

Southwestern territory was defined by the Commission as embracing the following states: Texas, Arkansas, Oklahoma, Louisiana west of the Mississippi River, and Missouri south of the main line of the Missouri Pacific Railroad between Kansas City and St. Louis (R. 56-57).

Western Trunk Line territory was defined by the Commission as embracing the following states: Iowa, Minnesota, Wisconsin, Illinois, North Dakota, South Dakota, Missouri north of the main line of the Missouri Pacific Railroad between Kansas City and St. Louis, and the upper peninsula of Michigan.

The order extended the scope of the inquiry to traffic moving over Western Trunk Line carriers as intermediate lines, and having origin or destination in certain Eastern territory as follows (R. 1173-1174):

> It should also be understood that among the divisions involved are those that apply in subdividing the revenue accruing to respondents out of joint rates on traffic moving through western trunk line territory between points in southwestern territory and points in the territory east of the Illinois-Indiana state line, on and north of the Ohio River and on and north of the lines formed by the Chesapeake & Ohio, Norfolk & Western, and Virginian railways between Cincinnati, Ohio, and Norfolk, Virginia, including the New England states, New York, and the lower peninsula of Michigan.

A comparatively small number of the carriers, all or a part of whose lines of railroad are located in the said Western Trunk Line territory and Southwestern territory,[1]

[1] The order was not made to apply to divisions on joint rates on traffic via Kansas City to and from points in Oklahoma on the lines of the Santa Fe, Rock Island and Missouri Pacific because they had effected a compromise as to divisions on that traffic (R. 109, 59).

were made respondents. Of the 44 Class I carriers in Western Trunk Line territory, 15 were made parties. Of the 37 Class I carriers in Southwestern territory, 26 were made parties. None of the Class II or Class III carriers in either territory was made a party. In Exhibit "A" are shown all carriers in both groups. The names of those made parties to this proceeding are printed in italics.

Attorney-Examiner Disque, who conducted the hearings, made the following explanation of the theory upon which the parties to the proceeding were selected (R. 924-925):

> Exam. Disque: That list (of respondents) was made up by Mr. (Commissioner) Potter and myself. We did not want to bring in the short lines in different parts of the west and have them petitioning us for increased divisions. This was started as a trunk line railroad proposition. It was started as a proposition to settle the disputes between the important carriers, and that is the reason we left out the small ones, also for the reason that we thought that it would simplify the case. Any divisions fixed for the large lines would ultimately control the divisions fixed for their smaller sisters.

The names of the carriers which were designated as respondents in the Commission's report and order, and were termed, respectively, complainants and defendants by the Commission (R. 57-58), are given in a footnote.[2] Of these

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[2] Complainants: Chicago & Alton Railroad Company, Chicago & North Western Railway Company, Chicago, Burlington & Quincy Railroad Company, Chicago Great Western Railroad Company, Chicago, Milwaukee & St. Paul Railway Company, Chicago, St. Paul, Minneapolis & Omaha Railway Company, Illinois Central Railroad Company, Minneapolis & St. Louis Railroad Company, Minneapolis, St. Paul & Sault Ste. Marie Railway Company, Quincy, Omaha & Kansas City Railroad Company, Chicago & East-

carriers, the Chicago & Eastern Illinois Railway Company, Wabash Railway Company, Louisiana Railway & Navigation Company of Texas and Texarkana and Fort Smith Railway Company had never been made parties respondent (R. 1170-71, 1174).

The Southwestern respondents filed a motion to require all the Southwestern carriers to be made parties. This motion was overruled by the Commission (R. 1174, 1182).

As before stated, this was a proceeding by the Commission of its own motion. There was no complaint filed, nor were there any pleadings of any nature whatsoever. There

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ern Illinois Railway Company, and Wabash Railway Company. The Minneapolis, St. Paul & Sault Ste. Marie Railway Company, however, took no part in the proceeding.

Defendants: Atchison, Topeka & Santa Fe Railway Company; Beaumont, Sour Lake & Western Railway Company, Chicago, Rock Island & Gulf Railway Company, Chicago, Rock Island & Pacific Railway Company, Fort Worth & Denver City Railway Company, Galveston, Harrisburg & San Antonio Railway Company, Gulf, Colorado & Santa Fe Railway Company, Houston & Shreveport Railroad Company; Houston & Texas Central Railroad Company, Houston East & West Texas Railway Company, International-Great Northern Railroad Company, Kansas City, Mexico & Orient Railway Company, Kansas City, Mexico & Orient Railway Company of Texas, Kansas City Southern Railway Company, Oklahoma & Gulf Railway Company, Kansas, Oklahoma & Gulf Railway Company of Texas, Louisiana Railway & Navigation Company, Louisiana Railway & Navigation Company of Texas, Louisiana Western Railroad Company, Missouri-Kansas-Texas Railroad Company, Missouri-Kansas-Texas Railroad Company of Texas, Missouri Pacific Railroad Company, Morgan's Louisiana & Texas Railroad & Steamship Company, New Orleans, Texas & Mexico Railway Company, Panhandle & Santa Fe Railway Company, St. Louis, Brownsville & Mexico Railway Company, St. Louis-San Francisco Railway Company, St. Louis, San Francisco & Texas Railway Company, San Antonio & Aransas Pass Railway Company, Texas & Pacific Railway Company, St. Louis Southwestern Railway Company, St. Louis Southwestern Railway Company of Texas, Texas & New Orleans Railroad Company, Texarkana & Fort Smith Railway Company, and Vicksburg, Shreveport & Pacific Railway Company.

As the Commission states (R. 57-58), the Santa Fe and Rock Island have important lines in both territories.

was no statement made at any time during the taking of testimony as to the specific demands of the Western Trunk Lines. It was the general understanding that they sought additional revenues; but no definite claim was made, and the Southwestern carriers during the whole period of the taking of testimony were not advised of any definite complaint or charge that they were called upon to meet. The uncertainty and confusion created by this extremely informal proceeding is illustrated by excerpts from the record shown in the footnote.[3]

After the taking of a large amount of testimony, which will be referred to more in detail hereafter, the Examiner submitted a proposed report, in which he stated the average results shown for the two so-called groups of railroads in Western Trunk Line territory and Southwestern terri-

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[3] Mr. Towner, attorney for the Western Trunk Lines, respondents, stated, during the taking of the testimony, that the Western Trunk Lines were willing to arbitrate. Mr. Roberts, attorney for the St. Louis-San Francisco Railroad, one of the Southwestern respondents, asked Mr. Towner to state the demand of the Western Trunk Lines as to the divisions (R. 355). After considerable discussion Mr. Towner (R. 356-360) said:

> I would not want to do it. What I am saying is that I cannot do it, but I would like to ask you a question now, if that is all right with you. Just what has the question of what we want got to do with whether or not you will arbitrate?
>
> Mr. Roberts: It has everything to do with it. • • • That is a vital fact for us to know if we are going to arbitrate, just what you are specifically demanding. • • • I would like to know what the Western Trunk Lines specifically are requesting in the form of divisions. Then we can make an answer.
>
> Mr. Towner: We are requesting what is fair and proper and just, but I could not undertake to tell you what is fair and proper and just until I hear all of the evidence. I am certainly no better than the Commission in that respect.
>
> Mr. Roberts: A man who brings a lawsuit usually knows what he wants in advance. I never saw a man who brought a lawsuit who did not know what he wanted. • • •

tory, and recommended that there should be no change by the Commission in the divisions, saying (R. 1212-1213):

> Consideration of groups or averages, however, is often misleading. The revenue which a mileage prorate would transfer to the Western Trunk Lines would go to the Chicago, Burlington & Quincy, Illinois Central and Wabash perhaps as much as it would to the weaker lines, namely the Chicago & Alton, Chicago & Eastern Illinois, Chicago Great Western and Chicago, Milwaukee & St. Paul. This situation argues against a change in divisions for financial reasons. Transfusion of revenue should be undertaken for strengthening weak carriers only in extreme cases and only as a last resort.
>
> No such convincing showing has been made as would justify affirmative action on the part of this commission with respect to the divisions in the

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Mr. Muckley: Usually when you arbitrate something there is a definite dispute about something. Now, what is the dispute? • • •

Mr. Towner: I will state that, as a matter of record, that I do not think the Western Trunk Lines are getting enough money in the divisions of the Southwestern rates.

Exam. Disque: But you are not prepared to say how much more you ought to have.

Mr. Towner: I do not know. How can I tell? • • •

Exam. Disque: It may be at the end of the next hearing Mr. Towner can come forward and tell us that he wants such and such a basis of divisions. It may be that will sound half reasonable to you and you will talk to him about it.

Examiner Disque again took the matter up shortly before the close of the hearing. The following occurred (R. 1109):

Exam. Disque: What do you expect?

Mr. Towner: I expect the Commission to prescribe some sort of mileage basis (6078-6079).

Exam. Disque: What sort of mileage basis, a mile and a half or a mile and a quarter?

Mr. Towner: Whatever the Commission finds to be proper between groups.

See also R. 369, 678-679.

> aggregate, but there is much reason to believe that a constructive revision of individual divisions by the carriers interested would be warranted.

The Commission, however, after hearing arguments upon exceptions to the examiner's report handed down a report in which it held that the existing divisions were not just, reasonable and equitable (R. 86), and prescribed a basis of divisions which it declared to be just, reasonable and equitable (R. 88-90).

The Commission's report (R. 55-93) may be fairly summarized as follows:

The Commission treated the proceeding as involving the divisions of joint rates, not between individual carriers, parties to the joint rates, but between two territories. It said (R. 57):

> This report deals only with the divisions in the aggregate north and south of Kansas City and St. Louis, Mo., and East St. Louis, Cairo, Gale and Thebes, Ill., respectively, of joint rates between points in western trunk-line territory generally east of the Missouri River and points in the Southwest.

The Commission (R. 57) said also:

> The divisions under consideration relate not only to traffic having origin and destination in the territories mentioned, but also include divisions of the western lines' portions of the joint rates on traffic moving between points in the Southwest and points in territory east of the Illinois-Indiana State line and on and north of the Ohio River and the line formed by the Chesapeake & Ohio, Norfolk & Western, and Virginian between Cincinnati, Ohio and Norfolk, Va., including New England and the Lower Peninsula of Michigan (R. 57).

The Commission considered the matter from the standpoint of the two so-called groups of railroads, that is, the Western Trunk Line respondents, which it termed the complainants, and the Southwestern respondents, which it termed defendants, but, as a matter of fact, many of the statistics which it used included statistics as to operations and revenues of other Class I carriers besides the respondents. The statistics also covered the entire operations of the respondents, and were not confined to the traffic here involved, nor to operations in Western Trunk Line and Southwestern territory.

The Commission discussed in a general way the divisions which were in effect, the population of the Western Trunk Line territory and the Southwestern territory, the relative increase in population in the two territories, the growth of agricultural and industrial development in the two territories, and reached the general conclusion that conditions in the Southwestern territory were improving more relatively than in the Western Trunk Line territory, although the population and the amount of agricultural and industrial products in the Western Trunk Line territory greatly exceeded those in the Southwestern territory.

The Commission also stated that the freight rates in Southwestern territory were on materially higher level than the freight rates in the Western Trunk Line territory (R. 69), some of them being 40 to 50 per cent higher (R. 71), and that it appeared that the general level of rates was somewhere in the neighborhood of 25 per cent higher in the Southwest than in Western Trunk Line territory (R. 72). The Commission also stated that the "traffic density was over 50 per cent greater in the Western Trunk Line group than in the Southwest" (R. 74). The Com-

mission, however, reached no definite conclusion from any of these comparisons.

The Commission then stated that (R. 78):

> The vital thing to ascertain here is obviously the relative cost of service in the two groups, and upon that matter traffic density throws only an indirect and not very illuminating light.

The Commission then, from a table showing the average freight operating expenses per ton mile in 1924 of Class I carriers operating within the Western Trunk Line region and Southwestern region, drew the conclusion that it "cost somewhere in the neighborhood of 15 per cent more per ton mile to haul freight in the Southwest than in Western Trunk Line territory" (R. 78). The Commission said:

> Operating expense, however, does not tell the whole story, for there are overhead charges to consider, such as taxes and return on investment, and it is with respect to such overhead that the carriers with the heavier traffic density have the advantage. Average freight revenues per ton mile are from this point of view better criteria, and we have seen that they were somewhere in the neighborhood of 25 per cent higher in the Southwest than in Western Trunk Line territory. But such revenues in turn may be partially misleading, for they may have provided a larger return on investment in the one case than in the other. A still better basis for comparison would obviously be the amounts needed in each case to cover operating expenses, taxes and other like charges, and a fair return on investment (R. 78-79).

The Commission then made a computation of the amount of revenue required to pay the aggregate operating expenses, taxes, and other charges, and a return of 5.75 per

cent. on the aggregate book investment (that is, road and equipment, material and supplies, and cash) in each of the two groups; after making an adjustment for the passenger operating expenses and revenues, it reached the following conclusion as to what the freight revenue per ton mile would have been in the two groups, respectively, *if* the 5.75 per cent. had been earned (R. 83):

> Confining the computations to the strictly group lines, it appears that in 1924 the constructive freight revenue per ton mile was 12.01 mills in Western Trunk Line territory and 14.29 mills in the Southwest, an excess for the latter of 18.9 per cent. The effect of these figures is to indicate that the cost of service, including a fair return on investment, was somewhere in the neighborhood of 20 per cent greater in the Southwest than in the Western Trunk Line group, based on averages of 1923 and 1924 operations, and somewhere in the neighborhood of 17 per cent greater based on 1924 operations.

The Commission continued:

> These figures are, of course, open to the criticism that they are either based upon the operations of systems which extend in some instances beyond group boundaries, or, in the case of the strictly group lines, upon an incomplete showing of group operations. However, there are reasons to believe that they are not unfair to defendants (R. 83).

The Commission stated various considerations which apparently were deemed by it to support the fairness of the above computation of the relative amounts of revenue required by the so-called Western Trunk Line group and the so-called Southwestern group. It made no further find-

ings[4] as a basis for any definite division of the revenue from the joint rates, and concluded that the existing basis of divisions was unjust, unreasonable and inequitable and that to cure those defects the divisions "must be readjusted upon a consistent basis which will as nearly as practicable reflect, in the light of all the facts of record, the differing conditions in the two territories". The Commission did not then proceed to require that the revenue should be

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[4] The Commission did summarize the so-called salient facts as follows (R. 85-6), but, as will be seen, they do not constitute definite findings:

1. That the present divisions were established, for the most part, about 35 years ago and conform to no logical or consistent basis. They are considerably more favorable to complainants in the case of oil and lumber than in the case of other forms of traffic.

2. That transportation conditions have changed materially since most of the divisions were established, and that the change has benefited defendants more than it has complainants. The trend is distinctly in favor of defendants.

3. That transportation conditions are nevertheless more favorable in Western trunk-line territory than in the Southwest, more particularly with reference to density of traffic. However, conditions vary in the different parts of Western trunk-line territory, and appear on this record to be considerably more favorable in Illinois than in the other States included in that region. They grow continually less favorable from east to west.

4. That the difference in transportation conditions is reflected in the level of rates in the two territories. It is not possible from the record to determine just what the difference is in average levels, but it appears to be greater than the difference in average transportation conditions. This is particularly true of the class rates, which have apparently been constructed upon somewhat different theories in the two territories, and are in process of revision in Western trunk-line territory.

5. That the cost of operation per ton-mile, including all expenses, charges, and a fair return on investment, in all probability does not average as much as 20 per cent higher in the Southwestern than in the Western trunk line group.

6. That the financial condition of complainants is not on the whole as good as that of defendants.

divided so as to yield to the Southwestern respondents 20 per cent greater revenue per ton mile out of the joint rates, than was received by the Western Trunk Line respondents, as its above quoted finding would seem to require it to do, but determined that the divisions should be readjusted as follows (R. 86-87):

> Such a readjustment will, we think, be accomplished if the joint rates are divided, south and north of the gateways, in proportion to assumed rates for the two hauls, the assumed rate for the distance covered by the haul south of the gateway to be the first-class rate for that distance under the present southwestern scale, and the assumed rate for the distance covered by the haul north of the gateway to be 80 per cent of the first-class rate for that distance under the same scale in the case of traffic to or from points in Illinois and Wisconsin and 87 per cent in the case of traffic to or from other points in the Western Trunk Line group. Where differentials are added in either territory in making the rates, such differentials should be deducted before prorating and added to the divisions of the lines in the region in which they apply. In the case of traffic to or from points in official territory east of the Indiana-Illinois State line, the assumed rate used in determining complainants' proportion of the revenue accruing to the western lines should be 80 per cent of the first-class rate under the southwestern scale for the distance covered by complainants' haul minus 10 cents because of the absence of originating or delivering service.

No findings were made by the Commission with reference to any individual respondent, although the rates of

return of the individual carriers were shown by a table contained in the Commission's report, reproduced below, to be widely dissimilar, there being carriers in both the Southwestern region and the Western Trunk Line region which were earning only a very small return, and also carriers which were earning 5 or 6 per cent.

	1922 *Per Cent*	*1923* *Per Cent*	*1924* *Per Cent*	*1925* *Per Cent*
Western Trunk Lines:				
Chicago & Alton	1.05	3.59	2.86	2.87
C. & E. I.	3.03	3.82	1.62	2.37
C. B. & Q.	4.52	4.29	4.80	4.60
C. G. W.	.19	1.54	1.59	1.48
C. M. & St. P.	1.90	2.81	2.57	2.27
Illinois Central	5.92	5.17	4.76	4.76
Wabash	1.77	3.84	3.85	4.84
Southwestern Lines:				
A. T. & S. F.	4.61	5.17	4.63	5.16
C. G. & S. F.	6.05	5.67	9.04	7.55
H. & T. C.	4.30	4.44	5.28	4.33
H. E. & W. T.	2.26	1.75	1.91	7.21
I. G. N.	2.87	4.98	5.63	4.52
K. C. M. & O.	Deficit	.22	Deficit	.24
K. C. M. & O. of Tex.	Deficit	Deficit	2.41	.47
K. C. S.	2.88	2.60	2.85	3.49
M. K. T.	4.72	3.78	4.29	4.96
M. K. T. of Tex.	1.63	1.56	5.03	3.28
Mo. Pac.	2.09	2.21	3.81	4.14
St. L. S. F.	3.99	4.72	5.05	5.23
St. L. S. W.	7.05	7.44	4.97	4.81
St. L. S. W. of Tex.	Deficit	Deficit	1.33	1.46
Texas & Pacific	2.72	3.84	4.15	4.11

The Commission's statement, above quoted, did not, however, give the rates of return of all the Western Trunk Line respondents and Southwestern respondents for the years 1922 to 1925, inclusive. Similar data with regard to the other respondents are contained in pages 6-9, inclusive, of Exhibit A-124 (R. 512), as follows:

	Rate of Return			
	1922 Per Cent	1923 Per Cent	1924 Per Cent	1925 Per Cent
Western Trunk Line Respondents:				
Chicago & Northwestern Ry. Co.	3.47	3.04	3.23	4.14
Chicago, St. Paul, Minneapolis & Omaha Ry. Co.	4.11	3.32	3.73	3.46
Minneapolis & St. Louis R. R. Co.	1.32	1.22	†1.42	.36
Minneapolis, St. Paul & Sault Ste. Marie Ry. Co.	3.31	3.75	3.04	4.10
Quincy, Omaha & Kansas City R. R.	†2.63	†2.77	†2.60	†2.67
Southwestern Respondents:				
Gulf Coast Lines	6.85	8.52	9.68	9.79
The Beaumont, Sour Lake & West. Ry. Co.				
New Orleans, Tex. & Mexico Ry. Co.				
St. Louis, Brownsville & Mex. Ry. Co.				
Ft. Worth & Denver City Ry. Co.	7.40	8.63	10.52	9.19
Sou. Pacific Lines in Tex. and La.	2.35	2.43	3.97	3.27
Galveston, Harrisburg & S. A. Ry. Co.				
Houston & Shreveport R. R. Co.				
Louisiana Western R. R. Co.				
Morgan's La. & Tex. R. R. & S. S. Co.				
Texas & New Orleans R. R. Co.				
*Houston & Tex. Central R. R. Co.				
*Houston East & West Tex. R. R. Co.				
Kansas, Okla. & Gulf Ry. Co.	2.80	1.31	.17	† .08
Louisiana Ry. & Navigation Co.	.39	‡ .64	‡1.14	‡1.95
San Antonio & Aransas Pass Ry. Co.	.95	3.12	2.71	**
Vicksburg, Shreveport & Pacific Ry. Co.	3.39	6.16	4.00	5.01

* The rates of return of the Houston & Texas Central R. R. Co. and Houston East & West Texas R. R. Co. were shown in the Commission's table, but the rates of return for the other respondents which form parts of the Southern Pacific System were excluded.

† Indicates deficit.

** Included as part of Southern Pacific Lines in 1925.

‡ Indicates deficit. Includes Louisiana Ry. & Navigation Co. of Tex.

The Commission made no specific findings with reference to the other matters which Section 15 (6) of the Act requires to be taken into consideration. Further, it made no findings with respect to any of those matters as a basis for giving a greater or less division to one carrier or group of carriers than otherwise would be given to such

carrier or group of carriers. With reference to those matters, the Commission said (R. 85):

> Paragraph (5) of section 15 of the interstate commerce act requires us, in determining just, reasonable, and equitable divisions to give due consideration among other things—to the efficiency with which the carriers concerned are operated, the amount of revenue required to pay their respective operating expenses, taxes, and a fair return on their railway property held for and used in the service of transportation, and the importance to the public of the transportation service of such carriers and also whether any particular participating carrier is an originating, intermediate, or delivering line, and any other fact or circumstance which would ordinarily, without regard to the mileage haul, entitle one carrier to a greater or less proportion than another carrier of the joint rate, fare or charge.
>
> In reaching our conclusions we have taken all these matters into consideration to the extent that the record makes it possible to do so.

The Southwestern respondents filed a petition for rehearing and reconsideration, and to introduce additional testimony showing, among other things, that the divisional formula prescribed by the Commission, instead of yielding to the Southwestern respondents as a group 20 per cent. greater revenue per ton mile, would yield to them only about 5.8 per cent. greater revenue per ton mile, and that the said proposed basis of divisions had never been submitted at the hearings in the above proceeding (R. 28-30, 37). The Commission declined to grant a rehearing or to reopen the case, but made an additional report and entered an order thereon, which in certain respects modified the basis of divisions proposed in the original report. The basis

of divisions prescribed by the Commission can probably be best set forth by quoting the Commission's order, which, omitting formal matters, is as follows (R. 109-113):

> IT IS ORDERED, That of the joint rates for the transportation of property in interstate or foreign commerce via the gateways of Kansas City and St. Louis, Mo., and East St. Louis, Cairo, Gale, and Thebes, Ill., between points on the lines of any of the above-listed respondents in the Southwest, as above defined, and points on the lines of any of the above-listed respondents in the States of Illinois and Wisconsin, the just, reasonable, and equitable divisions in the aggregate, south and north of said gateways, shall on and after August 1, 1929, be determined, subject to the provisos noted below, by dividing said joint rates in proportion to assumed rates for the two hauls, the assumed rate for the distance covered by the haul south of the gateway to be the first-class rate for that distance under the present southwestern scale and the assumed rates for the distance covered by the haul north of the gateway to be 80 per cent., when the gateway is Kansas City, and 75 per cent., when the gateway is St. Louis, East St. Louis, Cairo, Gale, or Thebes, of the first-class rate for that distance under the same scale;
>
> IT IS FURTHER ORDERED, That of the joint rates for the transportation of property in interstate or foreign commerce via the gateways named in the next preceding paragraph between points on the lines of any of the above-listed respondents in the Southwest, as above defined, and points on the lines of any of the above-listed respondents in the remainder of western trunk-line territory east of the Missouri River, as such territory is above defined, eliminating the States of Illinois and Wisconsin, the just, reasonable and equitable divisions in the aggregate,

south and north of said gateways, shall on and after August 1, 1929, be determined, subject to the provisos noted below, by dividing said joint rates in proportion to assumed rates for the two hauls, the assumed rate for the distance covered by the haul south of the gateway to be the first-class rate for that distance under the present southwestern scale and the assumed rate for the distance covered by the haul north of the gateway to be 87 per cent. of the first-class rate for that distance under the same scale.

IT IS FURTHER ORDERED, That of the joint rates for the transportation of property in interstate or foreign commerce via the gateways named in the second preceding paragraph between points on the lines of any of the above-listed respondents in the Southwest, as above defined, and points in the territory east of the Illinois-Indiana State line and on and north of the Ohio River and the line formed by the Chesapeake & Ohio, Norfolk & Western, and Virginian between Cincinnati, Ohio, and Norfolk, Va., the just, reasonable, and equitable divisions in the aggregate, south and north of said gateways, of the shares of said joint rates accruing to above-listed respondents participating therein shall be determined on and after August 1, 1929, subject to the provisos noted below, by dividing such shares in proportion to assumed rates for the two hauls, the assumed rate for the distance covered by the haul south of the gateway to be the first-class rate for that distance under the present southwestern scale and the assumed rate for the distance covered by the haul of western trunk-line respondents north of the gateway to be 80 per cent., when the gateway is Kansas City, and 75 per cent., when the gateway is St. Louis, East St. Louis, Cairo, Gale, or Thebes, of

the first-class rate for that distance under the same scale, minus 15 cents;

PROVIDED, HOWEVER, That where differentials are used in the construction of the joint rates, such differentials shall be deducted before prorating and added to the amounts determined by the prorating process and accruing to respondents in the regions where the differentials apply; and

PROVIDED, FURTHER, That instead of applying the basic prorate formulas prescribed in the above ordering paragraphs to individual joint rates and routes, both territories may be divided, if respondents so agree, into groups, and percentages determined for the division of all joint rates between particular groups by applying the appropriate prorate formula to fair average distances between such groups and the gateways named above; and that respondents for purposes of convenience and simplicity may deviate in other respects from the strict letter of the order if they so agree.

IT IS FURTHER ORDERED, That the above-listed respondents, according as they participate in the transportation, be, and they are hereby, notified and required to cease and desist, on and after August 1, 1929, and thereafter to abstain from asking, demanding, collecting, or receiving divisions of said joint rates upon other bases than those above prescribed.

AND IT IS FURTHER ORDERED, That this order shall continue in force until the further order of the Commission.

It will be noted that the above order does not prescribe the divisions of revenue from the joint through rates on all traffic between Southwestern territory and Western Trunk Line territory. On the contrary, it is limited to traffic

between a point on a Southwestern carrier, which is a respondent in this proceeding, and a point on a Western Trunk Line carrier, which is also a respondent; or, in case of traffic to or from certain eastern territory, the order applies only in the event that the traffic originates or terminates on the line of a Southwestern respondent, and passes over the line of a Western Trunk Line respondent. As to all other traffic the old divisions are left in force. Some curious results follow: for example, if traffic originates or terminates on the line of the Louisiana Railway and Navigation Company, one of the respondents (R. 512, Exhibit A-124), which has a mileage of 343 miles (in later years shown with the Louisiana Railway & Navigation Company of Texas, with a total mileage of 543.71 miles) and has operated at a deficit, or practically a deficit, in each of the years shown in Exhibit A-124, the order of the Commission applies, and that carrier is required to pay increased divisions to the Western Trunk Line respondents; but if the traffic originates or terminates on the line of the Louisiana & Arkansas Railway Company, which is not a respondent, and which is now a part of the same railroad system (Finance Docket 7076, 150 I. C. C. 477), has a mileage of 302.25 miles, and had a rate of return upon its investment of about 5 per cent., the Commission's order does not apply and the latter carrier is not required to pay the increased divisions. If traffic originates or terminates on the line of the Kansas, Oklahoma & Gulf Railway Company, one of the respondents, which has a mileage of 314.42 miles and in the year 1925 was operated at a deficit, the Commission's order applies and that carrier must pay increased divisions to the Western Trunk Line respondents; but if it originates on the line of the Midland Valley

Railroad Company, which is not a respondent, and which has a mileage of 364.04 miles and in the year 1925 had a return upon its investment of 5.63%, the Commission's order does not apply and the Midland Valley is not required to pay increased divisions to the Western Trunk Lines. If the traffic originates or terminates on the line of the Kansas City Southern Railway Company, one of the respondents, the Commission's order applies and the Kansas City Southern is required to pay the increased divisions to the Western Trunk Lines; but if the traffic originates or terminates on the line of the Texarkana and Fort Smith Railway Company which is not a respondent, but is the main line in Texas of the Kansas City Southern (63 I. C. C. 618; R. 1166), the Commission's order does not apply.

The basis of divisions prescribed by the Commission does not consist of percentages applying directly to the rates in question, nor of a rate pro-rate based on the actual rates, nor of a mileage pro-rate applying directly to the actual rates, but consists of percentages which are to be obtained by taking certain percentages of the first class rates under the Southwestern scale and deriving the percentages therefrom (the Commission refers to these percentages of said rate scale as "assumed rates"). The Southwestern scale was established by the Commission, in the Southwestern territory, after the hearing and argument of the proceeding here involved. It is not the scale of rates actually in effect in Western Trunk Line territory (R. 97). This is mentioned for the purpose of calling attention to the difficulty of securing an accurate result when a formula is used which is based on a rate scale different from the rates actually in effect.

The order applies to all of the Southwestern respondents, regardless of their widely varying degrees of financial strength and weakness; and inures to the benefit of the Western Trunk Line respondents regardless of their widely varying degrees of strength and weakness.

No reservation is made in the order of the right to any respondent to apply for adjustments, such as was contained in the New England divisions case, and the importance of which was emphasized by this Court in its opinion in that case (261 U. S. 199, 201).

3. Proceedings in the lower court.

This suit was brought before a statutory court of three judges in the District Court of the United States for the Western Division of the Western District of Missouri, under the provisions of the Urgent Deficiencies Appropriation Act of October 22, 1913, to enjoin, set aside and annul the Commission's order, above referred to. The petition asserted the invalidity of the order, on the ground that it was in excess of the Commission's powers, was arbitrary, unjust, and unsupported by substantial evidence, and upon each and all of the grounds set forth in the specifications of error and the following argument. The Interstate Commerce Commission intervened, as did the Western Trunk Line respondents. All defendants answered, alleging the validity of the Commission's order.

The lower court, on November 27, 1929, entered its order dismissing the plaintiff's petition. An appeal to this Court was duly taken.

4. Finding of probable jurisdiction.

A statement in accordance with paragraph 1 of Rule 12 of the revised rules of this Court, of the grounds on which

the jurisdiction of this Court is invoked, was duly filed, and on April 28, 1930, this Court entered an order finding that probable jurisdiction had been shown (..... U. S. .....; 50 S. C. 350).

Specification of Errors.

The appellants make the following specification of errors:

1. The district court erred in failing to hold the Commission's said order void because it is based on averages only and because the Commission in the said proceeding did not take into consideration, and made no study of, or findings as to, each individual carrier, either on the basis of typical evidence or specific evidence, and also because the evidence, statements and findings in the Commission's report show that the conditions of the individual carriers in each so-called group are not the same, but are widely dissimilar, so that substantial justice cannot be done to the individual carriers by a group order.

2. The district court erred in holding in effect that the Southwestern respondents are estopped from making objections to the validity of the Commission's order because of the manner in which the defense was conducted by the Southwestern respondents, since the proceeding was not conducted upon any definite statement of issues, nor by any framed issues by pleadings, which would enable said respondents to make an adequate defense, or to make an election as to the course to be pursued.

3. The district court erred in failing to hold the Commission's said order void because, as shown by the Com-

mission's reports in said proceeding, none of the said petitioners is earning a fair return upon its investment, and the said order, as to each of said petitioners, is therefore confiscatory.

4. The district court erred in failing to hold the Commission's said order void because in so far as the said order applied to the divisions of joint rates on traffic to and from points east of the Illinois-Indiana State line the Commission did not have all the necessary and proper parties before it, to wit: the railroads operating within the territory east of the Illinois-Indiana State line and connecting with the Western Trunk Line respondents at junctions in the State of Illinois, nor sufficient evidence upon which to prescribe such divisions.

5. The district court erred in failing to hold the Commission's said order void, and against the public interest, because the Commission, after finding that the vital thing to ascertain in fixing divisions as between two groups of carriers selected by the Commission, one group being located in the Western Trunk Line territory and the other group in the Southwestern territory—said territories being defined by the Commission in the said proceeding entitled Docket No. 15234, and the said carriers being the respondents in the said proceeding—was the cost of service, and that a better basis of comparison was the cost of service, including a fair return upon investment (that is, the amount required to pay operating expenses, taxes and other like charges, and a fair return upon investment), and after ascertaining the average cost of service, including a fair return on investment of each of said groups of carriers, made an order fixing a basis of divisions, as between the

said two groups of respondents, which applied indiscriminately to the prosperous and the needy respondents in each territory, regardless of the amount needed by each individual respondent in order to permit it to pay its operating expenses, taxes and like charges, and to earn a fair return on investment, said order granting increased revenues, in many cases, to a Western Trunk Line respondent which was already receiving a higher rate of return than the Southwestern respondent from which such increased revenues were taken by the Commission's order, and in some cases taking revenue from a Southwestern respondent which was operating at a deficit, or receiving a very small return.

6. The district court erred in refusing to hold the Commission's said order void as being based upon no rational, consistent and lawful plan, because, since the said order was based primarily on the needs of the carriers in the Western Trunk Line territory and Southwestern territory, respectively, for revenue to pay operating expenses, taxes and other like charges, and a fair return on investment, an order should have been made which would give increased revenues to the individual carriers which were in relatively greater need thereof and would take such revenues only from the individual carriers which were enjoying relatively higher returns.

7. The district court erred in refusing to hold the Commission's said order void because the Commission made only two definite findings upon what it stated to be the vital considerations as a basis for fixing divisions, namely: (1) That the vital thing to ascertain in the proceeding was the relative cost of service in the Western

Trunk Line territory and the Southwestern territory, respectively, in which respect the Commission found that it cost on an average about 15% more per ton mile to haul freight in the Southwestern territory than in the Western Trunk Line territory, and (2) that a still better basis for comparison was the amounts needed in each case to cover operating expenses, taxes and other like charges, and a fair return on investment, in which respect the Commission found that the average freight revenue per ton per mile needed in Western Trunk Line territory to pay such expenses, taxes and other like charges and a fair return on investment, based on 1924 revenues and expenses, was 12.01 mills per ton per mile, as compared with 14.29 mills per ton per mile in Southwestern territory, an excess for the latter of 18.9%; and that, therefore, the cost of service, including a fair return on investment, was about 20% greater, on the average, in the Southwestern group than in the Western Trunk Line group, based on averages of 1923 and 1924 operations, and about 17% greater, based on 1924 operations; but the Commission, after making the above findings, prescribed a formula for the division of the revenue from the said rates which yields to the respondents in the Southwestern territory only 9% greater average revenue per ton per mile than is received by the Western Trunk Line respondents, without any findings or evidence supporting such action.

8. The district court erred in failing to hold the Commission's said order void for the reason that its decision is based upon such incomplete, general and unreliable evidence and conjectures (such as the use of statistics of operating revenues and expenses of railroads which were not made parties to the said proceeding, and statistics of

operating revenues and expenses from all traffic, and of the entire lines of railroad of said respondents, instead of being confined to the traffic transported under the joint rates involved in this proceeding, and to the portions of said lines of railroad which are located in the Western Trunk Line territory and Southwestern territory, respectively) as prevent the making of reasonably accurate findings as the basis for an order, which order takes a large amount of revenue from one so-called group of carriers and grants the same to another so-called group of carriers.

9. The district court erred in failing to hold the Commission's said order void for the reason that, as shown by the Commission's reports in the said proceeding, the Commission, as to material issues, made findings and entered its order upon assumptions of fact not supported by the evidence before it, and considered matters which were not introduced in evidence.

10. The district court erred in failing to hold the Commission's said order void for the reason that the findings of fact made by the Commission do not sustain its order in the said proceeding, but are inconsistent with and contrary to the said order.

11. The district court erred in failing to hold the Commission's said order void because the said order required the payment of increased divisions by certain of the respondents in the said proceeding, without any consideration whatever by the Commission, as shown by the Commission's reports, of the financial condition of such respondents, and also required the payment of increased divisions to certain respondents, such as the Atchison, Topeka & Santa Fe Railway Company, which opposed the granting

of increased divisions to the Western Trunk Line respondents, and to the Chicago, Rock Island & Pacific Railway Company, which took no part whatever in the proceeding.

12. The district court erred in failing to hold that the Commission's said order is void for the reason that it is palpably arbitrary and palpably unreasonable; also, unsupported by and contrary to the findings of fact and the evidence in the case; also, contrary to the purposes and provisions of the Interstate Commerce Act, and particularly of Section 15(6) thereof; also, contrary to the public interest; and, also, in conflict with the due process clause of the Fifth Amendment to the Constitution of the United States.

ARGUMENT.

I.

The Commission failed to obey the command of the statute, and exceeded its statutory power in basing its order upon average conditions of the two groups of carriers, and not upon the condition of each individual carrier to be shown by specific evidence applicable to it or by typical evidence applicable to all. The evidence and the reports of the Commission show conclusively that the conditions of the individual carriers in each group are so widely dissimilar that substantial justice cannot be done to individual carriers by an order based on averages, and without consideration of each individual carrier as a separate problem. The Commission's order, therefore, is invalid, and should be set aside.

The plain and inescapable effect of the Commission's order, which is challenged in this case, is to take approximately $3,000,000 (Exh. 10, R. 1226) in revenue annually

from certain of the strong and weak carriers alike in the Southwestern group, parties to the proceeding, and to transfer this sum to certain of the strong and weak carriers alike in the Western Trunk Line group, likewise parties to the proceeding. Not only are the stronger carriers in the Southwestern territory required to deplete their revenues for the benefit of the still stronger carriers in the Western Trunk Line territory, but the weak, and even bankrupt, carriers in the Southwestern group, though not earning any adequate return, or any return at all upon their investments, are required to still further deplete their scanty revenues and make substantial contributions to certain carriers in the Western Trunk Line group, some of which are among the most prosperous in the country and have no conceivable right to become further enriched at the expense of their impoverished connections.

The Commission's decisions and order are based upon a consideration of the average conditions of the carriers in each group, and its blanket orders apply alike to all carriers in both groups who are parties to the proceeding, without dealing or attempting to deal with the operating or financial condition of any one of the several carriers who are parties to the joint rates.

Does the statute defining the power and authority of the Commission authorize such a drastic, illogical, unjust and mischievous result, in a proceeding where it exercises *quasi judicial* powers to prescribe "the just, reasonable and equitable divisions" of joint rates to be received by the several carriers parties thereto? We most earnestly and confidently contend that it does not.

We turn to the Commission's statutory authority over the fixation of divisions, and adopt the following statement

thereof as contained in this Court's opinion in *Brimstone R. Co.* v. *United States*, 276 U. S. 104, 109:

Section 1 (4) Transportation Act, 1920, directs common carriers to establish through routes, reasonable and equitable rates, fares and charges; also to establish divisions of joint rates just, reasonable and equitable as between the participants, which shall not unduly prefer or prejudice any of them.

Section 15 (1) empowers the Commission whenever, after full hearing, it shall find any rate charged by a carrier is or will be unjust or unreasonable or unjustly discriminatory or unduly preferential, or prejudicial, or otherwise in violation of this Act, to determine and prescribe the just and reasonable rate thereafter to be observed and to make an order requiring the carrier to cease and desist from such violation.

Section 15 (3) provides that "the Commission may, and it shall whenever deemed by it to be necessary or desirable in the public interest, after full hearing," establish joint rates, "and the divisions of such rates, fares, or charges as hereinafter provided."

Section 15 (6)—"Whenever, after full hearing upon complaint or upon its own initiative, the Commission is of opinion that the divisions of joint rates, fares, or charges, applicable to the transportation of passengers or property, are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers parties thereto (whether agreed upon by such carriers, or any of them, or otherwise established), the Commission shall by order prescribe the just, reasonable, and equitable divisions thereof to be received by the several carriers, and in cases where the joint rate, fare, or charge was established pursu-

ant to a finding or order of the Commission and the divisions thereof are found by it to have been unjust, unreasonable, or inequitable, or unduly preferential or prejudicial, the Commission may also by order determine what (for the period subsequent to the filing of the complaint or petition or the making of the order of investigation) would have been the just, reasonable, and equitable divisions thereof to be received by the several carriers, and require adjustment to be made in accordance therewith. In so prescribing and determining the divisions of joint rates, fares and charges, the Commission shall give due consideration, among other things, to the efficiency with which the carriers concerned are operated, the amount of revenue required to pay their respective operating expenses, taxes, and a fair return on their railway property held for and used in the service of transportation, and the importance to the public of the transportation services of such carriers; and also whether any particular participating carrier is an originating, intermediate, or delivering line, and any other fact or circumstance which would ordinarily, without regard to the mileage haul, entitle one carrier to a greater or less proportion than another carrier of the joint rate, fare or charge."

(a) The statute requires the Commission to determine the divisions of each carrier, party to a joint rate, upon a consideration of its own rights and needs, and does not authorize the Commission to base its order fixing divisions for individual carriers upon group conditions or upon average conditions in the group, as has been done in this case.

It seems to us too clear for argument that the Commission's statutory authority is limited to dealing with individual carriers, as their rights and their necessities may

appear, and not with groups or with the averages of groups. It is authorized to deal with divisions of joint rates, and by order to fix "the just, reasonable and equitable divisions thereof to be received by *the several carriers*". Manifestly, each carrier, party to the joint rate, is a partner in a joint enterprise, whose rights are to be determined as the statute provides, as in a proceeding for partition, and each carrier is, therefore, a separate problem, and the Commission is required to deal with it separately, and to determine what divisions are just, reasonable and equitable *to it*. It is not enough that the divisions so fixed may be just, reasonable and equitable to certain carriers in the aggregate, composing a group of which it may be a member, or to the average of the group.

True, the rates and divisions of each carrier may be shown by specific instances which are proven by evidence to be fairly typical of all; but this is merely an indirect method of determining the rates and divisions in each individual instance. It may be that certain carriers in some instances may be shown by evidence, typical of all, to be so similar in location, operating conditions and financial resources that an order fixing divisions might be applicable to all such carriers without substantial injustice; but, clearly, there is no authority in the statute for a sweeping order reducing the divisions applicable alike to all members of a group composed of prosperous carriers, weak carriers, and even bankrupt carriers, for the purpose of affording relief to all members of another group of carriers, some of which are prosperous and need no relief, and others whose necessities can be relieved, if they should be relieved, by other legitimate means.

When we examine the matters to which the Commission, in fixing just, reasonable and equitable divisions, must give "due consideration", it is still more evident that the Commission has no authority to deal with carriers by groups, or by averages of groups. The Commission must give due consideration, among other things, to "the amount of revenue required to pay their *respective* operating expenses, taxes, and a fair return on their railway property held for and used in the service of transportation". This is a plain, unequivocal command to consider operating expenses, taxes, and a fair return on the value of the property of *each individual carrier*, in determining the divisions to be enjoyed by it. To hold otherwise is to expunge the word "respective" from the statute.

The obvious purpose of this requirement is to see that each individual carrier receives revenues from divisions, as well as rates, adequate to provide sufficient revenue to pay operating expenses, taxes, and a fair return on its property. This is in obedience to constitutional requirements. It is also in aid of the general policy of the Transportation Act to provide the public with adequate transportation service, and to provide the carriers with adequate revenues to meet their obligations. No authority is conferred upon the Commission to reduce the divisions of a carrier below what is reasonably required for the rendition of proper service. Much less has authority been conferred to reduce the divisions of a carrier already impoverished and earning less than enough to pay its operating expenses, taxes, and a fair return, and to hand it over to other prosperous carriers needing no relief, and even awaiting an action by the Government for the recapture of excess earnings.

Clearly, the Commission, in fixing divisions, is not authorized to give due consideration, or any consideration, to the aggregate operating expenses, taxes, and a fair return on the aggregate value of railway properties of any group of carriers, or the average of any group; nor to fix divisions that might be considered just, reasonable and equitable to a group of carriers, or to the average of the group.

Again, the Commission is required to give due consideration to the "efficiency with which the carriers concerned are operated". This obviously refers to the efficiency of each individual carrier in the conduct of its operations. It is absurd to suppose that it means the efficiency of the group, or the average efficiency of the group, which would be a meaningless expression. So, also, the expression "the importance to the public of the transportation services of such carriers". Manifestly, this refers to each of the carriers individually. No one would be concerned, in prescribing divisions, with the importance to the public of the transportation services of a group, or of the average importance of such group.

Furthermore, the Commission is to consider "whether any particular participating carrier is an originating, intermediate, or delivering line, and any other fact or circumstance which would ordinarily, without regard to the mileage haul, entitle one carrier to a greater or less proportion than another carrier of the joint rate, fare or charge". Here, again, it is too plain for argument that each carrier stands on its own bottom and constitutes a separate problem with which the Commission is called upon to deal.

This construction of Section 15 (6) is supported, we confidently contend, by the decisions of this Court, some of which we now refer to.

In *United States* v. *Abilene & S. Ry. Co.*, 265 U. S. 274, which involved the fixing of increased divisions for the Kansas City, Mexico & Orient Railroad Company, one of the objections urged was that the record did not contain any tariffs showing the individual joint rates, or any division sheets showing how these individual joint rates were divided, nor any information concerning the amount of service performed by the Orient and its several connections under such individual joint rates.

In support of the Commission's order it was argued that exhibits were introduced showing the general situation, but this Court held that the order was, nevertheless, void, saying:

> The argument is not sound. The power conferred by Congress on the Commission is that of determining, in respect to each joint rate. what divisions will be just. Evidence of individual rates or divisions, said to be typical of all, affords a basis for a finding as to any one. But averages are apt to be misleading. It cannot be inferred that every existing division of every joint rate is unjust as between particular carriers, because the aggregate result of the movement of the traffic on joint rates appears to be unjust. These aggregate results should properly be taken into consideration by the Commission; but it was not proper to accept them as a substitute for typical evidence as to the individual joint rates and divisions. In the New England Divisions case, tariffs and division sheets were introduced which, in the opinion of the Commission, were typical in character and ample in quantity, to justify the findings made in respect to each division of each rate of every carrier. A like course should have been pursued in the proceeding under review.

In *Brimstone R. & C. Co.* v. *United States,* 276 U. S. 104, this Court again states what the Commission must do in order to make a valid order in a divisions case. In that case, the Commission undertook to fix a new basis of divisions of joint rates to which the Brimstone Railway & Canal Company, the Southern Pacific Company and The Kansas City Southern Railway Company were parties; and it reduced the amount of the divisions which were to be received by the Brimstone Company for the reason that, in the opinion of the Commission, the Brimstone Company was receiving more revenue than was sufficient to cover the cost of its service and a fair return upon the value of its property. The Court in holding the order invalid said:

> The subsequent studies related only to the Brimstone Company; they did not extend at all to connecting carriers. The Commission (88 Interst. Com. R. 63, March 10, 1924) said they were "intended to develop the average cost, including return on investment, of moving loaded cars to and from the Southern Pacific and Kansas City Southern". No studies were made or evidence taken concerning efficiency of Southern Pacific and Kansas City Southern lines, amount of revenue required to pay their respective operating expenses, taxes, and a fair return upon their property, or the public importance of services performed by them, or any other fact or circumstance (except as shown above) which ordinarily, without regard to the mileage haul, would entitle them to a greater or less proportion of the joint rate. Section 15(6). * * *
>
> The Commission evidently undertook to deprive the Brimstone Company of receipts supposed to exceed a fair return on its property and award the same to connecting carriers without evidence tending to show they were in need or had or would re-

ceive more or less than a fair return from agreed divisions, or that the joint rates themselves were unfair and unjust, or that the agreed divisions were "unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers".

Counsel suggest that, in addition to facts revealed by studies of the Brimstone Company's affairs, the Commission did consider existing division sheets of joint rates, volume and distribution of traffic, past division sheets, divisions accorded to the Brimstone Company by the Federal Director General; also testimony showing competition controlled the agreed divisions. But the very definite command of Section 15(6) required more than that.

Both parties rely upon New England Divisions case, 261 U. S. 184, 43 S. Ct. 270, 67 L. Ed. 605, and United States *v.* Abilene & Southern Ry. Co., 265 U. S. 274, 44 S. Ct. 565, 68 L. Ed. 1016.

The first involved an order granting larger divisions to New England roads. We there recognized the necessity of evidence "typical in character, and ample in quantity, to justify the finding made in respect to each division of each rate of every carrier", and declared that with such evidence before it the Commission properly proceeded to consider the importance to the public of the weak carriers and directed divisions intended to effectuate the purpose of Congress to insure adequate transportation service for the whole country, by extending aid to them. Nothing in the opinion supports the view that the Commission may take something from one carrier merely because its net revenue appears unduly large and donate this to another demanding nothing and not in need. Cost of service to one carrier is not the only factor to be considered in determining just divisions.

> In the second case the Commission undertook to modify existing divisions for the benefit of a weak road. It did not appear that any matters consideration of which was required by Section 15(6), Transportation Act 1920, had been ignored, but the evidence concerning some of these things had not been properly presented and therefore the order was annulled.

In the *New England Divisions* case, 261 U. S. 184, the Court said:

> It is asserted that the order is necessarily based upon the theory that, under Section 15 (6), the Commission has authority to fix divisions as between groups of carriers without considering the carriers individually; that Congress did not confer such authority; and that, hence, the order is void. Whether Congress did confer that authority we have no occasion to consider; for it is clear that the Commission did not base its order upon any such theory. The order directs a 15 per cent. increase in the divisions to the several New England lines. It is comprehensive. But it is based upon evidence which the Commission assumed was typical in character, and ample in quantity, to justify the finding made in respect to each division of each rate of every carrier.

In *Assigned Car Cases* (*U. S.* v. *Berwind White Coal Mining Co., et al.*), 274 U. S. 564, this Court again stated the rule which governs in a divisions case, distinguishing it from an assigned car case. The Court said:

> The claim is that the evidence, upon which the finding of the resulting discrimination in these other transportation facilities rests, relates to only a few

carriers, and that the general finding to that effect is without support, because the evidence introduced was not shown to be typical. Compare New England Divisions Case, 261 U. S. 184, 196, 197; United States *v.* Abilene & Southern Ry. Co., 265 U. S. 274, 291. The argument overlooks the difference in character between a general rule prescribed under paragraph (12) and a practice for particular carriers ordered or prohibited under Sections 1, 3 and 15 of the Interstate Commerce Act. In the cases cited, the Commission was determining the relative rights of the several carriers in a joint rate. It was making a partition; and it performed a function quasi-judicial in its nature. In the case at bar, the function exercised by the Commission is wholly legislative. Its authority to legislate is limited to establishing a reasonable rule. But in establishing a rule of general application, it is not a condition of its validity that there be adduced evidence of its appropriateness in respect to every railroad to which it will be applicable. In this connection, the Commission, like other legislators, may reason from the particular to the general.

Having shown, as we believe, fairly conclusively, that the statute under which the Commission acted does not authorize or permit the use of group conditions, or the average of group conditions, in the determining of just, reasonable and equitable divisions for the several carriers parties to the joint rates, we proceed to point out from the record that this unauthorized method is precisely what the Commission employed in the present case; and to give our reasons for our contention that its action was, therefore, invalid.

(b) The record shows conclusively that the Commission's order is based solely upon a comparison of the average condition of widely dissimilar carriers comprising the Western Trunk Line group with the average condition of widely dissimilar carriers comprising the Southwestern group.

A reading of the report of the Commission (R. 55-93; R. 93-109) shows without question that the Commission's order is based entirely upon a comparison of the average conditions of the two groups of carriers.

We refrain from repeating quotations from the Commission's report contained in the foregoing Statement to the effect that "the vital thing to be considered here is obviously the relative cost of service in the *two groups* (R. 78); that "average freight revenues per ton mile (in the two groups) are better criteria" (R. 78); and that "the cost of service, including a fair return on the investment, are somewhere in the neighborhood of 20 per cent. greater in the Southwest than in the Western Trunk Line group" (R. 83).

The Commission frankly admits that it dealt with the divisions in issue on a group basis, and that no question was raised with respect to the divisions of individual carriers. In its original report (148 I. C. C. 478; R. 86), the Commission said:

> The divisions here in issue are dealt with of record on a group basis. They are in other words the divisions in the aggregate north and south of the gateways named, and no question is raised with respect to the divisions of individual carriers.

In its report upon reconsideration (156 I. C. C. 99, R. 99), the Commission said:

> The proceeding has to do with the divisions in the aggregate north and south of the gateways between the two groups of carriers. It is impracticable to deal with such aggregate divisions except upon the basis of average conditions and the case was so tried by both groups. No carrier sought special treatment for itself nor was any effort made to show that special divisional bases are required by the transportation conditions surrounding particular kinds of traffic.

We respectfully but emphatically challenge the implications contained in the foregoing statement that "the case was so tried by both groups" and that "no carrier sought special treatment for itself". This will be dealt with later, under a separate heading.

The Commission did not in any manner discuss the amounts needed by the individual carriers in order to provide a reasonable rate of return, although a table printed in its report (R. 84), showed clearly the wide dissimilarity in the rates of return received by the individual carriers. Nor did the Commission discuss the effect which its order would have upon the revenues of the various individual carriers. The table referred to, which is taken from the Commission's report (R. 84), states the rates of return based upon their respective investment amounts, of various Western Trunk Line and Southwestern respondents during the years 1922 to 1925, inclusive, and is set out at pages 15-16 of the foregoing statement.

(c) The Commission's order in question, if enforced, will bring about results so illogical, unjust and arbitrary as to be beyond the Commission's power and authority.

As will be seen from the tables above referred to, certain Southwestern carriers, for example, the Kansas City, Mexico and Orient, which had a deficit, or substantially a deficit, in every one of the years shown, and whose financial condition had been so precarious that the Southwestern carriers connecting directly with it had been ordered by the Commission to aid it by paying divisions in excess of the regular divisions (*Kansas City, Mexico & Orient Divisions*, 96 I. C. C. 378), the St. Louis Southwestern Railway Company of Texas, the Kansas, Oklahoma & Gulf Railway Company, and the Louisiana Railway & Navigation Company, all of which were operating at a deficit, or at so small a margin as to be practically a deficit, were ordered to pay increased divisions to such prosperous Western Trunk Line respondents as the Chicago, Burlington & Quincy Railroad Company, one of the strongest roads of the country, which, as shown by the report (R. 84), was enjoying a return of 4.29 to 4.80 per cent., the Illinois Central Railroad Company, also one of the strong lines of the country, which had a return of 4.76 to 5.92 per cent., and the Chicago and Northwestern Railway Company, also a strong line, which had a return from 3.04 to 4.14 per cent. The amounts which are ordered to be transferred from Southwestern respondents to more prosperous Western Trunk Line respondents are substantial.

For example, the Louisiana Railway & Navigation Company, one of the appellants herein, which, as just stated, had deficits in the years 1923, 1924 and 1925, would, under

the Commission's order, be required to pay to the Western Trunk Lines increased divisions amounting approximately to $55.83 per month or $670 per year (R. 1234). The Missouri-Kansas-Texas Railroad, as shown by the tables above referred to, earned an average annual return, for the years 1922 to 1925, inclusive, of 4.44 per cent., and the Missouri-Kansas-Texas of Texas, of 2.87 per cent., and yet, under the Commission's order, the Missouri-Kansas-Texas Lines would be required to pay increased divisions to the following more prosperous Western Trunk Line respondents (R. 1232): about $2,352 per month to the Illinois Central Railroad Company, whose average annual rate of return during the years 1922 to 1925, as shown by the Commission's report, was 5.15 per cent.; about $5,204 per month to the Chicago, Burlington & Quincy Railroad Company, whose average annual rate of return for the said years was 4.55 per cent. per annum; and about $1,790 per month to the Atchison, Topeka & Santa Fe Railway Company, which was content with its old divisions and opposed any change therein, and whose average annual rate of return for the said years was 4.89 per cent. per annum. The Kansas City Southern Railway Company, whose average rate of return for the said years was 2.95 per cent. per annum, would contribute (R. 1230) the following sums: to the Chicago, Burlington & Quincy Railroad Company, whose average rate of return for those years, as already stated, was 4.55 per cent. per annum, $1,610 per month; to the Chicago, Rock Island & Pacific Railway Company, whose average rate of return during those years was 3.80 per cent., the sum of $3,055 per month, and to the Wabash Railway Company, whose average return was 3.57 per cent., the sum of $3,863 per month. Many similar examples will be apparent from a study of the tables.

It thus appears that, after deciding that the vital thing to be determined was the amount needed by the carriers to pay expenses, taxes and a fair return on investment, the Commission made an order which would take revenue from all Southwestern respondents and transfer it to all Western Trunk Line respondents upon the basis of average conditions in the two groups, entirely regardless of the financial conditions of the individual carriers; thus in many instances making the poor poorer and the rich richer.

(d) Appellants are not estopped to contend that the Commission failed to obey the command of the statute, and exceeded its statutory authority in basing its order on average group conditions, instead of upon the condition of each carrier, considered separately.

1. Our first contention, which is one of law, is that if the Commission, as we have contended, failed to obey the command of the statute, or exceeded its statutory power in adjusting divisions between two groups of carriers on the basis of the average condition of the groups, such failure or absence of authority cannot be cured by any action of the parties or by the attitude which they assumed during the hearing before the Commission. The Commission has no power except such as has been specifically given it by Act of Congress; and this power must be exercised as given and cannot be added to or affected in any way by the manner in which the case is presented by the parties. The matter is jurisdictional, and the Commission's jurisdiction cannot be broadened by any act of the parties or by the consent of the parties, even if such consent had been given. It is unnecessary to refer to the many decisions of this and other courts holding that questions of jurisdiction remain

unaffected by the acts and conduct of the parties. This proposition of law should be sufficient to dispose of the claim in the Commission's second opinion and in the opinion of the lower court that the proceeding was conducted before the Commission as a group proposition, and that, therefore, in some way, some estoppel has been created against the appellants.

2. Both the Commission and the lower court were in error in stating that the case was conducted before the Commission as a group proposition, and we now desire to point out this error, even though, unfortunately, it involves a partial examination of this voluminous record.

In the Commission's second opinion, it erroneously stated that the case was tried as a group proposition. It says (R. 99):

> The proceeding has to do with the divisions in the aggregate north and south of the gateways between the two groups of carriers. It is impracticable to deal with such aggregate divisions except upon the basis of average conditions, and the case was so tried by both groups. No carrier sought special treatment for itself, nor was any effort made to show that special divisional bases are required by the transportation conditions surrounding particular kinds of traffic.

And again (p. 96):

> The findings were based chiefly on the relative transportation conditions in the two territories.

Evidently the statement that the case was tried by both groups upon the basis of average conditions was inadvertently made, since it is at variance with the record, as will be clearly shown.

The lower court evidently adopted at its face value the foregoing statement in the Commission's second opinion, for it says (36 F. (2d) 795):

> It appears from the record that the hearings were conducted on the basis of a group proposition. No attempt was made to have the individual carriers treated separately. All witnesses purported to represent all of the southwest carrier respondents.

This statement, we respectfully submit, is wholly at variance with the record, as will plainly appear.

This proceeding, as above stated, was instituted by the Commission on its own motion. There were never at any time any pleadings or issues, nor were there any definite claims made by the Western Trunk Lines during the period while testimony was being taken. Counsel for the Western Trunk Lines frankly stated in the course of the argument upon final submission that during the period when testimony was being taken he could not announce what he wanted because he did not know (R. 1255), and that he could not state his position until the evidence had been put in (R. 1256). At the conclusion of the testimony and during the final argument before the Commission, counsel for the Western Trunk Lines for the first time formulated his demand, as follows (R. 1254):

> What I am interested in is to get such a change in the divisions as will transfer from the southern (southwestern) to the western lines some of the money that the southwestern is getting under the present divisions.

The extremely informal nature of the proceeding will be readily understood. The Western Trunk Lines put in a mass of data showing their need of revenue, and attempting

to show that the Southwestern carriers were in better financial condition. The Southwestern carriers, in the absence of any specific claims on the part of the Western Trunk Lines, and without knowing what the Commission proposed to do, or what it would be asked to do, could do no more than to present evidence to offset, rebut or explain, as well as they could, the evidence offered by the Western Trunk Lines. It was obviously difficult for them intelligently to meet by evidence the data offered by the Western Trunk Lines in support of a position so vague and obscure that it could not be formulated in words until the evidence was all in. When, as above stated, counsel for the Western Trunk Lines at the argument of the case put forth the specific claim for a change in divisions, counsel speaking for the Southwestern carriers said (R. 1273) that their position was that if any changes in divisions were made, they should leave the revenue of the Southwestern lines as it was, or accord them a little more. He also stated (R. 1273) that if the Commission desired to take into consideration "the financial condition of the carriers", it would have to be in a proceeding of another character, as was done in the *Orient* case.

Not only was there no agreement or understanding that the proceeding should be tried on a group basis, but there was a specific protest against any such action. Mr. C. C. Dana, Assistant Freight Traffic Manager of the Santa Fe, declared that it would be "wholly impracticable and would result in grave injustice" to deal with divisions by groups, instead of a determination of just and reasonable divisions *per se*. He said (R. 902):

> It may be possible to arrive at some general equation for the purpose of determining whether or no

> the present division of the aggregate revenue on all of the traffic as between the Western Trunk Lines as a whole and the Southwestern Lines as a whole is just and reasonable, but because of the many varying elements which should be taken into consideration in determination of just and reasonable division *per se*, it would be wholly impracticable and would result in grave injustice to apply such general equation to the divisions from or to any particular territory. The factors which originally fixed the divisions for Arkansas, Oklahoma, Louisiana and Texas were not the same nor are they now, from which it follows: should the Commission decide some change is necessary as to divisions between the various origin and destination territories (they) must be considered on their respective merits.

There is nothing in the first opinion of the Commission even intimating that the parties agreed that the case should be tried as a group proposition, or that a group order should be entered. On the contrary, one of the Commissioners, in his dissenting opinion, protested against dealing with divisions on a group basis, and insisted that each carrier and each joint rate and the division thereof was a separate problem. He said (148 I. C. C. 482):

> No facts are mentioned in the report to justify a finding that the present divisions as applied to individual joint rates, to joint rates on particular commodities or classes of commodities or to particular carriers, are unjust and no such finding is made. Nevertheless, the majority conclude that all existing divisions, considered in the aggregate, are and will be unjust because of the opinion that the aggregate result is unjust. But as said by the Supreme Court, "It can not be inferred that every existing division

> of every joint rate is unjust as between particular carriers, because the aggregate result of the movement of the traffic on joint rates appears to be unjust." U. S. *v.* Abilene & So. Ry. Co., 265 U. S. 274, 291.

Turning, now, to the witnesses who testified before the Commission, it is entirely clear that the lower court was in error in stating that the hearings were conducted on the basis of a group proposition; that no attempt was made to have the individual carriers treated separately; and that all witnesses purported to represent all the Southwest carrier respondents.

Mr. J. E. Hutchinson, Vice-President of the St. Louis-San Francisco Railway, testified (R. 369) concerning financial and operating conditions of that company; about difficult and expensive operating conditions, heavy grades, washouts, light traffic on branch lines, expenditures for improvements to roadbed and equipment in order to promote efficiency and economy; additional expenditures needed for that purpose, but not possible on account of lack of earnings, and that such expenditures could only be undertaken from time to time in the future as earnings permit; increased efficiency and economy through increased freight train loading, decrease in amount of fuel consumed, increase in freight car miles; campaign for safety and claim prevention which has materially reduced payments on account of claims for personal injury and property damage; decrease in operating ratio; that in spite of increased efficiency and economy, the Frisco has never yet earned a fair return on its investment, and that its rate of return on investment now is but slightly greater than it was ten years

ago; that its rates of return on investment are as follows (R. 382):

1916	4.28%
1917	4.35%
1921	4.34%
1922	3.76%
1923	4.24%
1924	4.82%

Other witnesses testified as to the financial and operating conditions existing upon their individual railroads, giving their individual situation and condition.

J. P. Cowley (R. 387, *et seq.*), Assistant to the General Manager of the Gulf, Colorado & Santa Fe Railway, gave similar testimony in reference to the condition of that company. G. W. Lupton, Assistant to Vice-President in charge of operations of the Atchison, Topeka & Santa Fe Railway, testified (R. 404, *et seq.*) in reference to the condition of that company. J. Cannon, General Manager of the Missouri Pacific Railroad, testified (R. 411-419) in reference to that road. W. G. Choate, General Manager of the Gulf Coast Lines, testified (R. 419-430) in reference to that line. L. H. Mathis, Assistant General Freight Agent of the Louisiana Railway & Navigation Company, testified (R. 449-451) in reference to that line. L. H. Cecil, Vice-President and General Manager of the Texas Lines of the Southern Pacific, testified (R. 451-471) in reference to that company. H. E. Earl, General Superintendent of the Texas & Pacific Railroad, testified (R. 471-479) with reference to that company. W. M. Whittenton, Vice-President of the Missouri-Kansas-Texas Railroad, testified (R. 479-490) in reference to that company. E. H. Holden, General Superintendent of Transportation of The Kansas City Southern

Railway Company, testified (R. 490-500) in reference to that company. J. A. Shepherd, Assistant to the General Manager and Superintendent of Car Service of the Kansas City, Mexico & Orient Railroad, testified (R. 443-449) for that company. Mr. Boyd, attorney for that railroad, before having Mr. Shepherd testify, stated (R. 437, *et seq.*) that the tesitmony showed the extremely bad financial condition of that company; its need for additional revenue, and that the Commission had lately made an order increasing its divisions in the proceeding entitled "Orient Divisions Case", 96 I. C. C. 368. That company contended that it could not stand any reduction in its revenues, and that the decision in the Orient Divisions Case was so recent that there could not have occurred any change in conditions that would justify any change in divisions as to it.

In addition to evidence setting forth the operating and financial conditions peculiar to each road, there were certain facts that could be dealt with generally, and in order to avoid unnecessary duplication, the Southwestern respondents divided among several witnesses the task of introducing evidence of that nature. F. S. Schwimm, Assistant Chief Engineer of the Gulf Coast Lines, testified (R. 430-436) that the relative costs of maintenance in the Southwestern region were higher than in the Northwestern and Central Western regions; the latter railroads being, on the average, 15 or 20 years older, more seasoned, and able to be operated more economically. S. H. Bone, Assistant Auditor of Freight Receipts for the Missouri Pacific Railroad Company, introduced and testified (R. 500) regarding an exhibit made from data furnished by the various Southwestern railroads and consolidated by him, showing for the month of October, 1924, the freight traffic

moving from each Southwestern State to Western Trunk Line territory. H. W. Press, Assistant Comptroller of the St. Louis-San Francisco Railway, testified (R. 511-538; 1165-1169) concerning the average net railway operating income, investment in road and equipment, rate of return, net railway operating income per mile of road, capital stock outstanding, dividends declared, per cent. of dividends to capital stock, freight and passenger operating ratios, and other data, concerning each Southwestern respondent and each Western Trunk Line respondent, for the years 1916, 1917 and 1921 to 1925. This testimony covered in more complete form the data which had been introduced by B. F. Parsons on behalf of the Western Trunk Lines, being Exhibit A-38 (R. 222), Exhibit A-50 (R. 250), Exhibit A-51 (R. 258), etc.

One other topic was the subject of general testimony, and that was the existing divisions of the through rates on various classes and commodities in effect between the Southwestern carriers and Western Trunk Lines. There were a vast number of these divisions, and the work of putting them in evidence was divided among a number of witnesses, each of whom testified concerning the divisions on the particular class or commodity assigned to him; and also, in many instances, gave evidence in respect to their own individual lines.

From the foregoing brief résumé of the character of the evidence introduced, it must be apparent that the Commission's statement that the case was tried by all parties on the basis of average conditions, is entirely erroneous; and it is even more apparent that the statement of the lower court, above referred to, was equally erroneous.

The Commission's statement, that the case was tried by both groups on the basis of average conditions, cannot be regarded as a "finding of fact" under the statute. It was more in the nature of an argument to justify it in dealing with groups instead of by a consideration of individual carriers. Indeed, it is quite apparent that Mr. Commissioner Eastman, who wrote both opinions for the Commission, did not at the time of the argument of the case regard the proceeding as a group proceeding, in which only a group order could be entered, for during the argument he made the following statement from the bench (R. 1278):

> Commissioner Eastman: There is nothing in the issues that would prevent us from finding, if the record so shows, that certain divisions are right and that certain divisions are wrong and ought to be corrected.

3. It would be most unjust to the Southwestern respondents to enforce against them, by application of any rule of estoppel, divisions of through rates based upon average group conditions.

Only a portion of the Southwestern carriers were made parties to the proceeding. This omission of the other carriers, who would ordinarily be indispensable parties, is justified in the *New England Divisions* case and the *Orient Divisions* case by the supposed ability of the Southwestern respondents later to pass on the reduced divisions to the other Southwestern carriers. But for this rule all carriers would be required to be made parties.

But these other Southwestern carriers, not made parties to this proceeding, cannot be affected by any principle of estoppel. If it should be sought later to pass the reduced divisions on to them, they would not be bound by any prin-

ciple of estoppel that might be enforced against the Southwestern respondents in this case, but would have the clear right to have their own divisions established by a consideration of their own individual cases under the law. As to them there would have to be an entirely new proceeding, conducted as the statute provides, in which neither average group conditions nor rules of estoppel would control or be binding. The effect, therefore, of applying any rule of estoppel to the Southwestern respondents may be to enforce against them divisions based on average group conditions which they would be wholly unable to pass on to other carriers in the territory, and hence an unequal, unjust and arbitrary result would follow.

(e) As the Commission failed to follow the requirement of the statute, and exceeded its statutory power in basing its decision upon group or average conditions, its order is invalid and should be set aside.

That the Commission exceeded its statutory authority in making the orders complained of has, we feel, been demonstrated by what has been said above. If this be true, then it necessarily follows that the orders cannot stand, and must be set aside. Where the Commission exceeds its statutory power, its action is void (*Southern Pacific Company* v. *Interstate Commerce Commission*, 219 U. S. 433).

Where the Commission fails to follow the command of the statute, as it did in refusing to consider the carriers individually, instead of by the average conditions of the groups, its resulting order is void (*St. Louis & O'Fallon R. Co.* v. *United States*, 279 U. S. 461).

II.

The Commission's order, if enforced, will operate to confiscate the property of the appellants, and to take their properties without due process of law.

The Commission, in fixing the just, reasonable and equitable divisions of the several carriers who are parties to a joint rate, is required to give "due consideration * * * to their respective operating expenses, taxes, and a fair return on their railway property held for and used in the service of transportation". This, we contend, imposes upon the Commission the obligation to fix divisions that are justly compensatory for the service which they cover; and we also contend that the duty also rests upon the Commission, before issuing any divisional order, to make a finding, based on evidence, that the new divisions are sufficient to yield a fair return on the property held for and used in the service of transportation. The language quoted above implies this obligation, since due consideration of a fair return, that is, a constitutional return, cannot be had except by ascertaining and comparing the value of the property employed in the service, with the amount of net revenue resulting from a performance of the service, and reaching and stating its conclusion thereon. It cannot be supposed that the law permits the Commission to give a perfunctory consideration to operating expenses, taxes, and a fair return upon railway property, and then to ignore and disregard that requirement.

It is stated in *Dayton-Goose Creek R. Co.* v. *United States*, 263 U. S. 456, 477, and in *United States* v. *Abilene & Southern R. Co.*, 265 U. S. 285, that divisions established

by the Commission must be "adequate to avoid a confiscatory result". This necessarily follows from the plain terms of the Fifth Amendment. It is clear, therefore, that divisions which are confiscatory are void. We contend that the divisions fixed by the Commission's orders in controversy are confiscatory, and that the order is therefore invalid. We also contend, as above stated, that the Commission's order establishing divisions in the light of the requirement of the statute, should contain an affirmative finding, supported by evidence, that the divisions so established are compensatory. There is no such finding in the present record. But whether such a finding is required or not, the Commission's report affirmatively shows that, with two or three possible exceptions hereafter pointed out, none of the carriers against which the order is made was earning a fair return upon the value of its property, as guaranteed by the Constitution, and that the effect of the orders is still further to reduce the revenues of such carriers, and to still further confiscate their properties.

This Court, in *United Railways* v. *West*, 280 U. S. 234, had occasion to consider and decide what constitutes just compensation for a common carrier requiring for efficient public service skillful and prudent management, as well as the use of the plant. It there said (p. 251):

> Sound business management requires that after paying all expenses of operation, setting aside the necessary sums for depreciation, payment of interest and reasonable dividends, there should still remain something to be passed to surplus account; and a rate of return which does not admit of that being done is not sufficient to assure confidence in the financial soundness of the utility to maintain its credit and enable it to raise money necessary for the proper discharge of its public duties.

And the Court, after intimating that a rate of 7½ or even 8 per cent. on the value of the property might be necessary to avoid confiscation, referred to the fact that the company itself had sought from the State Commission a rate that would produce about 7.44 per cent., adding (p. 252):

> Upon the present record, we are of opinion that to enforce rates producing less than this (7.44) would be confiscatory and in violation of the due process clause of the Fourteenth Amendment.

The Commission (148 I. C. C. 476) sets out the rates of return enjoyed by certain respondents for the years 1922 to 1925, inclusive. We reproduce the statement so far as it affects the Southwestern lines, as follows (R. 84):

	1922 *Per Cent*	*1923* *Per Cent*	*1924* *Per Cent*	*1925* *Per Cent*
Southwestern Lines:				
A. T. & S. F.	4.61	5.17	4.63	5.16
C. G. & S. F.	6.05	5.67	9.04	7.55
H. & T. C.	4.30	4.44	5.28	4.33
H. E. & W. T.	2.26	1.75	1.91	7.21
I.-G. N.	2.87	4.98	5.63	4.52
K. C. M. & O.	Deficit	.22	Deficit	.24
K. C. M. & O. of Tex.	Deficit	Deficit	2.41	.47
K. C. S.	2.88	2.60	2.85	3.49
M.-K.-T.	4.72	3.78	4.29	4.96
M.-K.-T. of Tex.	1.63	1.56	5.03	3.28
Mo. Pac.	2.09	2.21	3.81	4.14
St. L.-S. F.	3.99	4.72	5.05	5.23
St. L. S. W.	7.05	7.44	4.97	4.81
St. L. S. W. of Tex.	Deficit	Deficit	1.33	1.46
Texas & Pacific	2.72	3.84	4.15	4.11

It will be seen that one carrier for two years of the period enjoyed a return in excess of 7½ per cent., although its average for the four years is 7.08 per cent. Each and all of the other 14 carriers received a return in each of the four years of less than 7½ per cent.; and many of them

much less—some operating for some of the years at a deficit.

The Commission's statement, above-quoted, did not, however, give the rates of return of all the Southwestern respondents for the years 1922 to 1925, inclusive. Similar data with regard to other Southwestern respondents is contained in Exhibit A-124 (R. 512), as follows:

	Rate of Return			
	1922 Per Cent	*1923* Per Cent	*1924* Per Cent	*1925* Per Cent
Southwestern Respondents:				
Gulf Coast Lines	6.85	8.52	9.68	9.79
The Beaumont, Sour Lake & West. Ry. Co.				
New Orleans, Tex. & Mexico Ry. Co.				
St. Louis, Brownsville & Mex. Ry. Co.				
Ft. Worth & Denver City Ry. Co.	7.40	8.63	10.52	9.19
So. Pacific Lines in Texas and Louisiana	2.35	2.43	3.97	3.27
Galveston, Harrisburg & S. A. Ry. Co.				
Houston & Shreveport R. R. Co.				
Louisiana Western R. R. Co.				
Morgan's La. & Tex. R. R. & S. S. Co.				
Texas & New Orleans R. R. Co.				
*Houston & Tex. Central R. R. Co.				
*Houston East & West Tex. R. R. Co.				
Kansas, Okla. & Gulf Ry. Co.	2.80	1.31	.17	†.08
Louisiana Ry. & Navigation Co.	.39	‡.64	‡1.14	‡1.05
San Antonio & Aransas Pass Ry. Co.	.95	3.12	2.71	§
Vicksburg, Shreveport & Pacific Ry. Co.	3.39	6.16	4.00	5.01

* The rates of return of the Houston & Texas Central R. R. Co. and Houston East & West Texas R. R. Co. were shown in the Commission's table, but the rates of return for the other respondents which form parts of the Southern Pacific System were excluded.

† Indicates deficit.

‡ Indicates deficit. Includes Louisiana Ry. & Navigation Co. of Tex.

§ Included as part of Southern Pacific Lines in 1925.

It will be apparent from an inspection of this additional statement that only two of the lines—Gulf Coast Lines and Fort Worth & Denver City Railway Company—can be said to have enjoyed a fair return. The other five lines received

much less than a constitutional return, three of them operating at a deficit, or substantially so.

The Commission also gives the average return of the Southwestern carriers for several years (R. 84); and this table is reproduced so far as it affects those lines:

Period	*Including Santa Fe and Rock Island Per Cent*	*Excluding Santa Fe and Rock Island Per Cent*
Year 1916	4.82	4.03
Year 1917	5.19	4.92
Year 1921	3.98	3.25
Year 1922	3.51	3.12
Year 1923	3.87	3.53
Year 1924	4.36	4.44
Year 1925	4.55	4.43
Average	4.30	3.95

It will be noted that the average return of the Southwestern lines, including the Santa Fe and Rock Island, was 4.30 per cent; and that the average return of the Southwestern lines, excluding the Santa Fe and Rock Island, was 3.95 per cent.

Measured by the rule of the *United Railways* case, *supra*, none of the Southwestern lines, with the possible exception of the two or three above referred to, earned just compensation for its property. The returns of the eighteen others fell below, and in many instances far below, what this Court has held to be just compensation.

The Commission makes a further computation (148 I. C. C. 474), showing that the Southwestern lines in the year 1924, which it takes as a typical year, did not even earn the 5.75 per cent. return contemplated by Section 15a of the Interstate Commerce Act. This computation is here reproduced so far as it affects the Southwestern lines (R. 80):

	Including Santa Fe and Rock Island	*Excluding Santa Fe and Rock Island*
Book investment	$3,480,105,170	$2,186,939,915
Net railway operating income	151,580,221	97,040,532
Per cent on investment	4.36	4.44
5.75 per cent return	200,106,047	125,749,045
Deficiency	48,525,826	28,708,513

The percentage earned on the investment of the Southwestern lines for the year 1924 was 4.36, including the Santa Fe and Rock Island, and 4.44, excluding the Santa Fe and Rock Island. This also is far below the just compensation to which the carriers were entitled. It is to be borne in mind that the percentage of 5.75 used by the Commission in its computation is not the measure of just compensation to which carriers are entitled. It is merely a factor required by the statute to be applied to group values to produce a sum of net revenue which the rates made by the Commission are expected to yield. But the Commission's own figures in the above computation affirmatively show that the Southwestern lines in 1924 failed by from $28,000,000 to $48,000,000 to earn a 5.75 per cent. return.

It is true that the foregoing rates of return are computed on the recorded investment of each of the companies. The Commission accepted this recorded investment as the best evidence of value of the properties, just as it accepted the recorded investment of railway properties as their value (*Ex Parte* 74, 58 I. C. C. 220, 228), after deducting approximately 5.7 per cent., which may have been intended to represent depreciation. The recorded investments of the carriers have, since 1907, been under the supervision and jurisdiction of the Commission, and investment accounts have been kept as the Commission has required. They may be proven to be somewhat greater or somewhat less than the actual values of railway properties when such values shall

have been ascertained under approved rules and principles. As the recorded investments reflect costs as they were incurred, and as such costs are now on a higher basis, it is probable that the application of the rule in the *O'Fallon* case (279 U. S. 461) would indicate a higher value than the book value. Quite likely, the recorded investment is the nearest approximation to real value available at the present time.

It may with propriety be said in this case, as this Court said in the *Minnesota Rate* cases, 230 U. S. 324, 472, in speaking of the value of the Minneapolis & St. Louis Railroad Company and referring to the book cost of its property, its reproduction cost, etc.:

> The margin of error which may be imputed to them is not sufficiently great to change the result.

There the rates of return were 4.14, 3.5 and 3.7 per cent., respectively, for the years 1907, 1908 and 1909. This Court did not hesitate to conclude that the rates there in question, which operated to reduced these rates of return, were confiscatory, since they made "a very serious reduction in a return already inadequate".

A similar situation is presented in *Norfolk Ry. Co.* vs. *Conley*, 236 U. S. 605, 614.

If the recorded investment in railway property is not to be accepted as value in this case, then it must necessarily result that the Commission had no evidence of value before it, and it could not, and did not, therefore, give consideration to "a fair return upon the railway property held for and used in the service of transportation". This would amount to a failure on the part of the Commission to comply with the mandate of the statute, and its resulting order would be void under the rule in the *O'Fallon* case, *supra*.

It is respectfully submitted that the Commission's own figures affirmatively establish that at the time it made the orders here in question the Southwestern carriers, with possibly two or three exceptions, were not receiving the just compensation for their properties that they were entitled to. The returns were plainly inadequate, and yet the Commission, with this fact before it, deliberately still further reduced their already inadequate returns in the aggregate amount of $3,000,000 annually. We contend that the Commission had no authority, legally or morally, to bring about a result so arbitrary, unjust, inequitable, and so violative of constitutional guaranties.

No doubt the Commission felt, and properly felt, that the Western Trunk Line carriers needed increased revenue in order properly to serve the public. Many other carriers in the country, perhaps all of them, feel that they, too, should have their revenues increased. While it was entirely within the power of the Commission, and perhaps its duty, as well, to afford relief to the Western Trunk Lines, it was not authorized to balance the unhappy condition of the carriers in the two groups, and to decide that the situation of one group was more desperate than that of the other, and to grant relief to one by further reducing the already inadequate revenues of the other.

The revenues of the Western Trunk Lines, of which but 2½ per cent. is derived from the joint rates under consideration in this proceeding (R. 520), could have been increased in a proper and approved manner without inflicting injury on the Southwestern carriers. They could have applied for an increase of both state and interstate rates. It is to be assumed that if their case was a meritorious one, relief would have been afforded to them.

Furthermore, the way was open to the Commission, if it so desired, to increase the joint rates in question, which would have afforded some relief to the Western Trunk Lines, and also to the Southwestern lines. Or if the Commission was unwilling to grant any relief to the Southwestern carriers, notwithstanding the inadequate rate of return enjoyed by them, it could, if it had so desired, have increased the joint rates and provided that the increase in the joint rates should be added to the divisions of the Western Trunk Line carriers, thus giving the Western Trunk Lines the entire benefit of the increase, and leaving the Southwestern carriers precisely where they were. The density of traffic in the Western Trunk Line territory was found by the Commission (148 I. C. C. 471) to be over 50 per cent. greater than the traffic density of the Southwestern carriers. Only a small increase in joint rates would have been required, therefore, to give to the Western Trunk Lines, by reason of their greater density of traffic, any relief to which the Commission might have considered them entitled. But the Commission adopted neither of these alternatives. The result of its action, we contend, is to take the property of the Southwestern carriers without just compensation, and hence its order is invalid.

III.

The Commission's order with relation to the division of joint rates on traffic to and from points east of the Illinois-Indiana State line is unlawful because the Commission did not have the Eastern carriers operating east of said State line before it: nor did it have any evidence that the divisions of the joint rate received by such Eastern carriers were just, reasonable and equitable, or otherwise.

The Commission's order prescribed the divisions of the through rate accruing to Western Trunk Line carriers on traffic having origin or destination in Southwestern territory and in Eastern territory; that is, territory east of the Illinois-Indiana state line. This class of traffic had neither origin nor destination on the Western Trunk Lines; the latter acting only as intermediate carriers. There are 19 carriers (R. 1293) in Eastern territory having direct connection with the Western Trunk Lines at points east of the Mississippi River. These 19 lines we will speak of, for convenience, as the "Eastern carriers". It results, therefore, that on the traffic in question, where the Western Trunk Lines acted as intermediate carriers, the parties to the joint rates are the Southwestern lines, the Western Trunk Lines and the Eastern carriers. Each of these three groups is a partner, so to speak, in the joint rates and the revenue accruing therefrom. This traffic is substantial. In the June test it was 36.7 per cent.; in the October test, 13.5 per cent. (148 I. C. C. 462).

As a preliminary matter, it should be explained that the Southwestern lines have never had any relations with the

Western Trunk Lines on the class of traffic now under consideration (R. 1290-1292). The primary point of interchange between the Southwestern carriers and the Eastern carriers was East St. Louis. Divisions on this class of traffic were agreed upon between the Southwestern lines and the Eastern carriers. The Western Trunk Lines were not a party to these divisional agreements, and had no relation to them. Then it was agreed between the Southwestern lines and the Eastern carriers that the same divisions applicable east and west of East St. Louis, that is, between the Southwestern carriers and the Eastern carriers, should apply to the Mississippi River crossings north of East St. Louis, such as East Hannibal, East Dubuque, Rock Island, Savanna and East Burlington. The rails of the Eastern carriers do not reach the Mississippi River at these north crossings, and therefore they are compelled to arrange with the Western Trunk Lines to move the traffic between junctions at Chicago and interior Illinois points and the Mississippi River crossings; and the Western Trunk Lines and Eastern carriers have arrangements under which, for the service thus performed by the Western Trunk Lines, the latter receive a part of the division accruing to the Eastern carriers under their agreement with the Southwestern carriers. In short, the divisional agreements on all of this class of traffic are solely between the Eastern carriers and the Southwestern carriers. The Eastern carriers, in a sense, employ the Western Trunk Lines to move the traffic between their lines and the Mississippi River, for which service the Eastern carriers pay the Western Trunk Lines on some agreed basis. This is all made clear in Mr. Leland's testimony (R. 1290-1292).

The effect of the Commission's order as to this class of traffic was to require the Southwestern carriers to contrib-

ute certain amounts from their own revenues to increase the compensation which the Western Trunk Lines were receiving from the Eastern carriers. The Commission did not stop to inquire whether the Eastern lines themselves should increase the compensation they were paying to the Western Trunk Lines. The Eastern lines were not made parties to the proceeding and there was no investigation as to their financial or operating conditions. For aught that appears in the record, the Eastern carriers were realizing unduly high divisions, even after paying the Western Trunk Lines for the transportation service performed by them, and in that event it was manifestly unjust and inequitable to place upon the Southwestern carriers the entire burden of affording relief to the Western Trunk Lines.

We contend that the Commission disobeyed the statute, and was without authority to prescribe divisions of the joint rates here in question without making the Eastern carriers parties to the hearing, and taking testimony and reaching a conclusion as to what their just, reasonable and equitable divisions of the through rates should be.

Section 15 (6) of the Interstate Commerce Act, which prescribes and limits the Commission's authority, provides that when it is of opinion that the divisions of joint rates, fares and charges are or will be unjust, unreasonable and inequitable, or unduly preferential or prejudicial "as between the carriers parties thereto", then the Commission shall by order prescribe the just, reasonable and equitable division thereof "to be received by the several carriers". In prescribing and determining the divisions, the Commission shall give due consideration to the efficiency with which "the carriers" are operated, the amount of revenue required to pay their respective operating expenses,

taxes, and a fair return on their railway property held for and used in the service of transportation, etc.

The divisions of the joint rates, fares and charges must be shown to be unjust, unreasonable, etc., "as between the carriers parties thereto," before the Commission is authorized to exert its authority to correct the inequality. What does the statute mean by the expression "the carriers parties thereto" except the parties to the joint rates under investigation? They are partners in the joint rates, but the partnership interest of each is not dependent upon any fixed arrangement, such as a mileage prorate, or fixed percentage, but is determined exclusively by the Commission, in the exercise of its *quasi*-judicial functions, after giving due consideration to the matters prescribed in Section 15 (6) as such matters may affect each and all of the carriers parties thereto. It is settled that one carrier "may be given a division larger than justice merely as between the parties would suggest 'in order to maintain it in effective operation as part of an adequate transportation system'" (*United States* v. *Abilene & Southern R. Co.*, 265 U. S. 285). The relationship between the parties to a joint rate, and their relative rights to a share thereof, cannot be determined until the Commission has performed its duties as to all parties. It is plain, therefore, that a joint rate to which three carriers are parties cannot be apportioned to one or to two without a consideration of the third. In this case no one can intelligently determine the rights and duties of the Western Trunk Line carriers and the Southwestern carriers without at the same time giving consideration to the rights and duties of the Eastern carriers. Each of the three carriers is to be considered; its efficiency, the amount required by it to pay operating expenses, taxes, and a fair return on its property, etc.

The Commission ignored the Eastern carriers. They might have been receiving excessive divisions, or divisions that were unreasonably low; or their divisions may have been just, reasonable and equitable. But the Commission did not stop to inquire. The Western Trunk Lines demanded increased divisions, and the Commission found that their divisions were unreasonably low. It assumed without evidence that if this deficiency was to be made up, it should be made up by the Southwestern carriers. But why might not the deficiency have been made up, in part at least, fairly and justly by the Eastern carriers? It was the Commission's duty to investigate "the several carriers" parties to the joint rates, and to fix divisions to be received "by the several carriers" parties to the joint rates. It was clearly the duty of the Commission to make the Eastern carriers parties, and to investigate their condition, and to adjust their divisions, if they needed adjusting. The action of the Commission in ignoring the Eastern carriers is equivalent to a finding that their divisions were just, reasonable and equitable, and that they should make no contribution to the deficiency of the Western Trunk Lines. Such a finding is wholly without any evidence whatsoever for its support.

The present case is similar to *Brimstone R. Co.* v. *United States*, 276 U. S. 104. There the Commission investigated the divisions received by the Brimstone Company on traffic interchanged on joint rates with the lines of the Southern Pacific and Kansas City Southern. It found that the divisions received by the Brimstone Company were excessive and amounted to an indirect rebate, and ordered their reduction. But it ignored the other carriers, as it has ignored the Eastern carriers here, and made no inves-

tigation of their needs and requirements. The Court said (p. 114):

> No studies were made or evidence taken concerning efficiency of Southern Pacific and Kansas City Southern lines, amount of revenue required to pay their respective operating expenses, taxes, and fair return upon their property, or the public importance of services performed by them, or any other fact or circumstance (except as shown above) which ordinarily, without regard to the mileage haul, would entitle them to a greater or less proportion of the joint rate. Section 15 (6).

The Court concluded that the order was invalid, using the following language (p. 117):

> The record discloses that before making the challenged order the commission failed to consider the items definitely specified by section 15 (6). And it must be annulled.

We contend that the Commission's order herein is invalid, because it did not make the Eastern carriers parties and give due consideration to the various elements specified in Section 15 (6) with respect to the divisions of the joint rates to which all three, the Eastern carriers, the Western Trunk Lines and the Southwestern lines, were parties, all as the statute requires.

IV.

The challenged order is unsupported by any substantial evidence, is contrary to the evidence, inconsistent with itself and therefore void, because the Commission, after finding that the Southwestern respondents require an average of 17 to 20 per cent. greater revenue per ton per mile of freight transported under the joint rates than do the Western Trunk Line respondents, prescribed divisions which yield to the Southwestern respondents not more than 9 per cent. greater revenue, without any finding or evidence to support its action in so doing.

In addition to our contentions that the basis adopted by the Commission was fundamentally erroneous, for the reasons elsewhere stated, we also contend that, upon the basis adopted by the Commission, its order is unsupported by and inconsistent with the evidence and findings, and is inconsistent with itself, and therefore invalid.

As already stated, the Commission, after a general discussion of the levels of rates, population, industrial development, density of traffic, etc., in the Western Trunk Line region and the Southwestern region, stated (R. 78) that "The vital thing to ascertain here is obviously the relative cost of service in the two groups".

The Commission found that, in 1924, it cost about 15 per cent more per ton per mile to transport freight in the Southwest than in Western Trunk Line territory.

The Commission continued (R. 79):

> A still better basis for comparison would obviously be the amounts needed in each case to cover

> operating expenses, taxes and other like charges, and a fair return on investment.

The Commission made a calculation as to the amounts needed, per ton mile of revenue freight, by each so-called group to pay operating expenses, taxes and other like charges and a return of 5¾% upon the aggregate investment of each group, made an adjustment for passenger operations, and found (R. 83) that

> in 1924 the constructive freight revenue per ton mile was 12.01 mills in Western Trunk Line territory and 14.29 mills in the Southwest, an excess for the latter of 18.9 per cent. The effect of these figures is to indicate that the cost of service, including a fair return on investment, was somewhere in the neighborhood of 20 per cent greater in the Southwest than in the Western Trunk Line group, based on averages of 1923 and 1924 operations, and somewhere in the neighborhood of 17 per cent greater based on 1924 operations.

The Commission made no other findings as a basis for dividing the revenues from the joint rates between the Southwestern respondents and the Western Trunk Line respondents. It did state some considerations which in its opinion showed that a finding that the Southwestern respondents were entitled to an average revenue per ton mile 20% greater than the Western Trunk Line respondents was not unfair to the Southwestern respondents.

The Commission made no specific findings with reference to the other matters to which the provisions of paragraph 6 of section 15 of the Interstate Commerce Act require it to give due consideration.

Upon this subject the Commission (R. 85), after quoting the matters to which it is required to give "due consideration", said:

> In reaching our conclusions we have taken all these matters into consideration *to the extent that the record makes it possible to do so.*

This is an indication that the record, in a proceeding carried on by the Commission on its own initiative, was, or may have been insufficient, and that the matters specified in the statute were considered only so far as a deficient record would permit.

The Commission did require the deduction of 15¢ in arriving at the formula for the divisions, in cases where the Western Trunk Lines were intermediate carriers as to traffic to and from Eastern territory. With this exception, however, there were no findings with reference to the other matters specified in paragraph 6 of section 15 of the Interstate Commerce Act. Especially were there no findings as to any of those other matters as a basis for a different division, than would otherwise be proper, of the joint rates of any carrier or carriers.

The Commission summarized what it termed the salient facts in the evidence. We quote them in full for the purpose of showing that they constitute no basis of fact sufficient to support the order. They are as follows:

> 1. That the present divisions were established, for the most part, about 35 years ago and conform to no logical or consistent basis. They are considerably more favorable to complainants in the case of oil and lumber than in the case of other forms of traffic.
>
> 2. That transportation conditions have changed materially since most of the divisions were established,

and that the change has benefited defendants more than it has complainants. The trend is distinctly in favor of defendants.

3. That transportation conditions are nevertheless more favorable in Western Trunk Line territory than in the Southwest, more particularly with reference to density of traffic. However, conditions vary in the different parts of Western Trunk Line territory, and appear on this record to be considerably more favorable in Illinois than in the other states included in that region. They grow continually less favorable from east to west.

4. That the difference in transportation conditions is reflected in the level of rates in the two territories. It is not possible from the record to determine just what the difference is in average levels, but it appears to be greater than the difference in average transportation conditions. This is particularly true of the class rates, which have apparently been constructed upon somewhat different theories in the two territories, and are in process of revision in Western Trunk Line territory.

5. That the cost of operation per ton mile, including all expenses, charges, and a fair return on investment, in all probability does not average as much as 20 per cent higher in the Southwestern than in the Western Trunk Line group.

6. That the financial condition of complainants is not on the whole as good as that of defendants.

The Commission then stated:

> In our opinion the divisions in issue are not just, reasonable and equitable. Many of them are unjust to complainants, and some of them are unjust to defendants. To cure their defects, they must be readjusted upon a consistent basis which will as nearly

as practicable reflect, in the light of all the facts of record, the differing conditions in the two territories. Such a readjustment will, we think, be accomplished if the joint rates are divided, south and north of the gateways, in proportion to assumed rates for the two hauls, the assumed rate for the distance covered by the haul south of the gateway to be the first-class rate for that distance under the present Southwestern scale, and the assumed rate for the distance covered by the haul north of the gateway to be 80 per cent of the first-class rate for that distance under the same scale in the case of traffic to or from points in Illinois and Wisconsin and 87 per cent in the case of traffic to or from other points in the Western Trunk Line group. Where differentials are added in either territory in making the rates, such differentials should be deducted before prorating and added to the divisions of the lines in the region in which they apply. In the case of traffic to or from points in official territory east of the Indiana-Illinois State line, the assumed rate used in determining complainants' proportion of the revenue accruing to the Western lines should be 80 per cent of the first-class rate under the Southwestern scale for the distance covered by complainants' haul minus 10 cents because of the absence of originating or delivering service.

As we shall show under another heading in this brief, neither this Southwestern scale nor the above formula was put in evidence, or in any manner brought to the attention of the Southwestern respondents, so that there was no opportunity to introduce evidence as to the propriety of their use or the division of the revenue which would result. The Southwestern scale was established in the Southwestern territory after the taking of testimony in this proceeding was concluded. This scale does not apply in West-

ern Trunk Line territory, and the level of rates there is much lower than in the Southwestern territory (R. 69-71).

Upon the publication of the Commission's report, the Southwestern respondents made a test of the actual workings of the said formula and found that the basis prescribed by the Commission, instead of yielding to the Southwestern respondents 20% greater revenue per ton mile, would yield to them only about 5.8% greater revenue. They brought this to the attention of the Commission in their petition for rehearing and for leave to introduce additional testimony. The Commission denied the petition, but made some changes in its divisional formula, and ordered that the same should be effective on and after August 1, 1929 (R. 109-113). The Southwestern respondents made a test of this modified formula, and introduced evidence at the hearing of this suit showing that the divisions prescribed by the Commission in said order, instead of yielding to the Southwestern respondents 20% greater revenue per ton mile, will yield to the Southwestern respondents only 9% more revenue per ton mile (R. 1225-1227).[5]

The actual working out of the Commission's formula gives to the Southwestern respondents only 9% greater revenue per ton mile, which is less than either the cost of service or the cost of service plus a return on the investment. We submit that it falls so far below the amount which the Commission found to be necessary, by the cri-

[5] Stated more fully, the Commission found that the amount needed by the Western Trunk Line respondents, in 1924, to pay operating expenses, taxes and a fair return on investment was 12.01 mills per ton mile, and by the Southwestern respondents, 14.29 mills per ton mile, an excess for the latter of 18.9 per cent. The test (R. 1226) showed that under the divisions prescribed by the Commission, the Western Trunk Line respondents would receive 12.93 mills per ton mile, and the Southwestern respondents, 14.10 mills per ton mile, an excess for the latter of only 9 per cent.

terion which it adopted as the basis for prescribing divisions, that the Commission's order is not supported by the findings and is void.

The Commission in its report on reconsideration endeavored to justify its formula, but made no effort to meet the showing of the Southwestern respondents that the formula prescribed by it did not yield 20% more revenue per ton mile. As we understand the report, the Commission, in its second report, devoted its efforts to showing that the formula ought to yield to the Southwestern respondents 20% greater revenue. In fact, the Commission claimed that it ought to yield more than that. The Commission said (R. 104):

> In 1924 these comparisons indicated that transportation costs in the Southwest exceeded those in Western Trunk Line territory by the following per cents.: (a) 14.6, (b) 19.5, (c) 18.9. In 1923 the per cent for (a) was 21.4 and for (b) it was 28.2. We did not have the figures for (c) in 1923. From these figures we drew the general conclusion, which is now criticized, that the cost of service in the Southwest was somewhere in the neighborhood of 20 per cent. greater, based on averages of 1923 and 1924 operations, and somewhere in the neighborhood of 17 per cent. greater, based on 1924 operations. The actual figures which we used in arriving at our divisional basis was about 22.5 per cent., for we used 25 per cent. excess for the Southwest on the traffic to and from Illinois and Wisconsin points and 15 per cent. for the remainder of the traffic to and from Western Trunk Line points, and the former appeared to be about three times the latter in volume. We realized that the statistics were open to criticism in certain respects, and resolved doubts in favor of the carriers whose revenues would be reduced by our findings,

> i. e., the southwestern lines. The final result was not the product of the statistics alone, but was reached in the exercise of judgment after considering all of the pertinent evidence.

The error of the Commission, as we see it, lay in the fact that, in ascertaining the relative amounts of revenue required by the Southwestern respondents and the Western Trunk Line respondents as groups, to pay expenses, taxes and a return on investment, the Commission made its calculations on the basis of the average revenue per ton mile required, which of course assumed an average constant cost of transportation without regard to length of haul or other conditions affecting such cost. The Commission then sought to make this finding effective, not by ordering a division of the revenue on a mileage pro rate constructed by allowing the Western Trunk Line respondents their actual mileage and the Southwestern respondents 1.2 miles for each mile of their actual mileage, but by applying different per cents. at different gateways to an assumed scale of rates, without any accurate adjustment for the relative amounts of traffic passing through the different gateways and without any adjustment (if one were possible) on account of the fact that the rates which the Commission sought to divide are not constructed strictly on the basis of a constant and uniform cost of service and return on investment. It would have been a miracle if the formula which the Commission prescribed had divided the revenue in accordance with the Commission's findings as to the relation of amounts of revenue per ton mile needed to pay expenses and return on investment in the two groups, and the miracle was not performed.

The Commission recognizes that it has not been customary to construct freight rates by increasing such rates in strict proportion to the increase in distance but on the contrary that, as the distance increases, the rate increases less in proportion to the increase in distance. In *United States War Department* v. *Abilene and Southern Railway Company*, 151 I. C. C. 91, the Commission said (p. 103):

> In the first place the rates used in pro-rating were all designed to cover both terminal and line haul service and in the second place most rate scales do not increase in proportion to distance quite apart from this circumstance.
>
> While the Commission without any proof therefor has assumed that the cost of transportation decreases as the length of haul increases it has stated that if this is a fact the relationship has not been determined.

In *Consolidated Southwestern Cases*, 123 I. C. C. 203, 385, the Commission said:

> There is, however, in this record no evidence showing conclusively the relationships which from a cost standpoint the longer haul rates should bear to the shorter haul rates.

In a dissenting opinion, in *Wool Rates Investigation*, 1923, 120 I. C. C. 493, Commissioner Eastman, who wrote the majority opinion in the case at bar, said:

> • • • in this country the freight-rate structure is built to an extent upon the principle of encouraging long-haul traffic without strict regard to differences in cost of service. I think it must be conceded that most of the scales which we construct have a diminishing ton-mile yield as distance increases which is

> out of proportion to the diminishing ton-mile cost. Certainly this is true of practically all of the long-haul rates which the carriers voluntarily establish. Proof can easily be supplied by comparing the divisions of transcontinental rates on important commodities with the local rates for the same hauls. It is thus a principle either consciously or unconsciously recognized that the public interest requires some concession in rates to long-haul traffic.

As already stated, the error in the Commission's action lay in the fact that in determining the cost of service the same was taken as a constant amount for each ton-mile transported and the Commission's finding shows that in order to enjoy the same rate of return as the Western Trunk Lines the Southwestern respondents must receive an average revenue, from each ton-mile, 20% greater than that received by the Western Trunk Lines. When the Commission sought to apply this finding in its formula, however, it could not be done for the reason that the rates do not provide an average constant amount to cover the cost of service nor an average constant amount to provide for an average rate of return, and the result was that the Commission's order, instead of yielding to the Southwestern respondents 20% greater revenue per ton-mile out of the joint rates involved, yielded to them only about 9% greater revenue per ton-mile, with a loss to the Southwestern respondents, *upon the basis of the Commission's finding*, of not less than $109,780 per month, or $1,317,360 per year (R. 32).[6]

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[6] This amount is obtained by increasing by 20% the ton miles of the Southwestern respondents, shown in Ex. 10 E. F. M., R. 1226, and dividing the total revenue, $4,953,349, for September, 1928, in proportion to the actual ton miles of the Western Trunk Line respondents and the ton miles plus 20% of the Southwestern respondents.

The Commission in its report on reconsideration (R. 95) states that it is not certain that the test of September, 1928, is representative. The Commission refused, however, to reopen the proceeding, as prayed by the Southwestern respondents, in order that this and other evidence might be introduced and considered. Appellants' evidence (R. 1228) in the district court shows also that if the computations made by the Commission (R. 95) as to the amounts which would be received by the Western Trunk Line respondents, under its formula, from the revenue shown in the June and October, 1924, tests, are completed, they also support the above contention of appellants.

The Commission refused to grant to the Western Trunk Line respondents a mileage pro-rate, which it estimated would yield them an increase in revenue of between $2,000,000 and $2,500,000 per year, and yet it prescribed a formula which, from only about two-thirds of the traffic (that is, the order applies to only about two-thirds of the traffic between Western Trunk Line territory and Southwestern territory, viz.: $4,953,349 out of $7,007,054 for the month of September, 1929, Petitioner's Exhibit 10, R. 1226) will yield them almost $3,000,000 per year (R. 1226).

There was no investigation and no finding as to whether the formula prescribed in the Commission's order would divide the revenue substantially in accordance with the findings contained in the report. The order was, therefore, unsupported by the evidence and the findings.

In *Interstate Commerce Commission* vs. *Louisville & Nashville Railroad Company*, 227 U. S. 88, this Court said:

> In the comparatively few cases in which such questions have arisen it has been distinctly recog-

> nized that administrative orders, *quasi* judicial in character, are void . . . if the facts found do not, as a matter of law, support the order made (citing many cases).

In *Interstate Commerce Commission* vs. *Chicago, Burlington & Quincy Railroad Company, et al.*, 186 U. S. 320, this Court said:

> Two absolutely conflicting propositions cannot at the same time be adopted. As the finding was that both the terminal charge of $2 and the through rate as reduced, when separately considered, were just and reasonable, and as the further finding was that as a consequence of the reduction of from $10 to $15 per car, the rates, considered together, were just and reasonable, it follows that there can be no possible view of the case by which the conclusion that the rates were unjust and unreasonable can be sustained.

In the *Chicago Junction* case, 264 U. S. 258, 265, this Court said:

> To refuse to consider evidence introduced or to make an essential finding without supporting evidence is arbitrary action. As it was admitted by the motion that the order was unsupported by evidence, and since such an order is void, there is no occasion to consider the other grounds of invalidity asserted by plaintiffs.

In a similar case, *Chestnut Ridge R. Co.* v. *United States,* 248 Fed. 791, the court, after discussing the respective functions of the Commission and the courts in such cases, held:

> An order of the Interstate Commerce Commission, fixing the divisional share of joint through

> rates to which a railroad company was reasonably and lawfully entitled, by determining the cost of its service and adding thereto a percentage as profit, *held* invalid, as unsupported by the evidence, because of a mistake in the theory upon which it calculated an item of the cost of service.

The evidence before the Commission must be not merely sufficient to support certain of the findings and conclusions of the Commission, but must be sufficient to support all findings and conclusions, and the findings and order of the Commission are not valid if based upon mere speculation, caprice, or arbitrary conclusions.

V.

The Commission exceeded its authority, and the order is void, because it is not in the public interest.

The said order is void because it is contrary to the public interest in taking revenue from weak carriers and transferring it to stronger carriers, thereby producing the opposite effect from that which was intended to be accomplished through the passage of the Transportation Act.

This Court has held that, in fixing divisions, the public interest must be considered.

In the *New England Divisions Case,* 261 U. S. 184, 194, this Court said:

> By new section 15 (6), page 486, the Commission is directed to give due consideration in determining divisions to "the importance to the public of the transportation services of such carriers", just as by Section 15 (3), page 485, the Commission is authorized, upon its own initiative, when "desirable in the

public interest'' to establish joint rates and ''the divisions of such rates''.

This Court adds the following comment in the margin:

> In thus making clear that in fixing divisions as well as rates the public interest should be considered, Congress doubtless had in mind expressions to the contrary in opinions of the Commission.

In the same case this Court said (261 U. S. 189):

> Transportation Act, 1920, introduced into the federal legislation a new railroad policy. Railroad Commission of Wisconsin *v.* Chicago, Burlington & Quincy Railroad Company, 257 U. S. 563, 585. Theretofore, the effort of Congress had been directed mainly to the prevention of abuses, particularly those arising from excessive or discriminatory rates. The 1920 act sought to insure, also, adequate transportation service. * * * The new provisions took a wide range. Prominent among them are those specially designed to secure a fair return on *capital devoted to the transportation service.* * * * By many railroads funds were needed, not only for improvement and expansion of facilities, but for adequate maintenance. On some, continued operation would be impossible unless additional revenues were procured. A general rate increase alone would not meet the situation. There was a limit to what the traffic would bear. * * * Moreover, it was not clear that the people would tolerate greatly increased rates (although no higher than necessary to produce the required revenues of weak lines), if thereby prosperous competitors earned an unreasonably large return upon the value of their properties. The existence of the varying needs of the several lines and of their widely varying earning power was fully realized. It was necessary to avoid unduly burden-

> some rate increases and yet secure revenues adequate to satisfy the needs of the weak carriers. To accomplish this two new devices were adopted: The group system of rate making and the division of joint rates in the public interest. Through the former, weak railroads were to be helped by recapture from prosperous competitors of surplus revenues. Through the latter, the weak were to be helped by preventing needed revenue from passing to prosperous connections. Thus, by marshalling the revenues, partly through capital account, it was planned to distribute the augmented earnings, largely in proportion to the carriers' needs.

In *United States* v. *Abilene & Southern Ry. Co.*, 265 U. S. 284, this Court said:

> It is settled that, in determining what the divisions should be, the Commission may, in the public interest, take into consideration the financial needs of a weaker road, and that it may be given a division larger than justice merely as between the parties *would suggest* "in order to maintain it in effective operation as part of an adequate transportation system", provided the share left to its connections is "adequate to avoid a confiscatory result". Dayton-Goose Creek Ry. Co. *v.* United States, 263 U. S. 456, 477; New England Divisions Case, 261 U. S. 184, 194, 195.

As we have already shown, the order of the Commission in the present case, instead of preventing needed revenues from passing to prosperous connections, compelled some of the weakest carriers in the Southwestern territory, which are operating at a deficit, or what is substantially a deficit, to pay a part of those needed revenues over to some of the strongest carriers financially in the territory, such as the

Illinois Central Railroad and the Chicago, Burlington & Quincy Railroad. We submit that it is clear, without further argument, that such an order, instead of promoting the public interest, is directly contrary to it, and is entirely repugnant to the purposes of the Transportation Act.

VI.

The decision of the Commission is based upon such incomplete and unreliable evidence and conjectures as to be wholly void.

The computations as to relative conditions of the Southwestern and Western Trunk Line carriers were not based upon even reasonably accurate data or findings.

The Commission said (R. 85):

> The greatest obstacle in securing a satisfactory record has been the difficulty of determining relative costs of service so far as the traffic in question is concerned. It has apparently not been practicable to segregate this traffic for this purpose from the other traffic in the two groups, nor indeed to separate group traffic wholly from operations beyond group boundaries.

As to density of traffic, the Commission said (R. 71):

> The record does not afford any exact measure of the situation.

The Commission also said (R. 78):

> These figures are, of course, *open to criticism* that they are either based upon the operations of systems which extend in some instances beyond group boundaries, or, in the case of the strictly group lines,

> upon an incomplete showing of group operations. However, there are reasons to believe that they are not unfair to defendants. In the first place, while both groups contain systems which extend beyond their western boundaries into territory with less favorable operating conditions, the Western Trunk Line group also contains systems, such as the Wabash and the Illinois Central, which extend beyond its eastern boundary into official territory with its more favorable operating conditions, and in the case of the Illinois Central, into the Mississippi Valley portion of Southern territory.

There was no evidence to support the above conjectures of the Commission that the various opposing influences described above would counteract each other in proper proportion and lead to a substantially accurate result, so that they not only indulged in conjecture, but in conjecture unsupported by any evidence.

The Commission's conclusions are of like kind (R. 86):

> That the difference in transportation conditions is reflected in the level of rates in the two territories. It is not possible from the record to determine just what the difference is in average levels, but it appears to be greater than the difference in average transportation conditions. This is particularly true of the class rates, which have apparently been constructed upon somewhat different theories in the two territories, and are in process of revision in Western Trunk Line territory.

The Commission then made one further conjecture, that a formula which had never been submitted to petitioners for testing or criticism and which made use of certain per cents of a rate scale which bore no definite and constant relation to the joint rates in controversy nor to cost of

operation, would, by some magic, yield to the Southwestern carriers 20 per cent more revenue per ton per mile than to the Western Trunk Line carriers.

The burden of proof was upon complainants, and if the evidence was insufficient to make a substantially accurate decision, as was the situation here, the Commission should have dismissed the proceeding, as the examiner recommended be done, instead of resolving all doubts against the defendants, as was the effect of its decision.

This was an adversary proceeding, and the burden of proof was upon the Western Trunk Line complainants. As this Court said in *United States* v. *Abilene & Southern R. Co.*, 265 U. S. 274:

> Every proceeding is adversary, in substance, if it may result in an order in favor of one carrier as against another.

It clearly appeared from the evidence that while the Southwestern Lines were receiving a larger relative share of the revenues from the joint rates, length of haul considered, this was justified because (1) transportation costs due to less density of traffic and other causes are materially higher per ton per mile in the Southwestern territory, and (2) the level of rates in the Southwestern territory is much higher than in the Western Trunk Line territory. The Southwestern territory is, as a result, paying the higher cost of operating the Southwestern railroads. There would be no justification, of course, for taking revenue paid by the shippers in the Southwestern territory on account of the higher cost of operating their railroads and transferring it to the Western Trunk Lines if the Southwestern carriers are receiving only that share of the revenue under the joint rates which is in proportion to the higher costs

of operation and the higher level of rates in the Southwest.

It is obvious that the financial distress, if any, of the Western Trunk Lines is largely due to the failure to maintain a sufficiently high level of rates in that territory. The Western Trunk Lines have made application in *Ex Parte 87 (Sub. No. 1), Class Rates Within Western Trunk Line Territory,* for substantial increases in rates (148 I. C. C. 468).

It is certainly an anomalous situation that a territory with a much higher density of traffic and a much lower level of freight rates should by order of the Commission receive aid from a territory with much lower density of traffic and a much higher level of rates. In the *New England Divisions* case, *supra,* conditions were exactly the reverse. There had been a special increase in the level of rates in the New England states under the Commission's order in *Ex Parte 74, Increased Rates 1920,* 58 I. C. C. 220, and it was stated in this Court's opinion (261 U. S. 192) that there was danger that if additional increases in the rates in the New England territory were made, those rates would become so high that traffic would be diverted to auto trucks and other modes of transportation. The special increases in rates had been put in effect in New England before the New England lines were awarded an increase in divisions as between themselves and other carriers. This Court indicated (261 U. S. 196) that the order of the Commission in the *New England Divisions* case might properly be deemed a supplement to or modification of that entered in *Ex Parte 74.*

The need of the Southwestern Lines for all of their present revenues—and more—is amply demonstrated by the rates of return of the Southwestern respondents shown

in the Commission's report in the present case (R. 84). In view of this situation, the Commission should have made a proper selection of parties and required accurate and convincing evidence from the complainants, or have produced such evidence through its own representatives, before making such an order as was made in this case, where (even upon the Commission's theory, the correctness of which we vigorously dispute) the Southwestern Lines were clearly entitled to a larger relative share of the revenue from the joint rates, and where accurate tests were necessary in order to determine by what amount, if any, the Southwestern Lines were receiving unjust divisions. No such accurate and convincing evidence was adduced, but, on the contrary, as we have shown, the evidence before the Commission required so many assumptions and conjectures that it had no real probative force, and the order based thereon amounted to a deprivation of property without due process of law.

We submit that proof fundamentally as accurate as that which this Court has required in State rate cases should be required.

In the case of *Allen* v. *St. Louis Iron Mountain & Southern R. Co.*, 230 U. S. 553, a suit was brought by the St. Louis, Iron Mountain & Southern Railway Company for the purpose of enjoining the enforcement of certain intrastate rates prescribed by the Legislature of the State of Arkansas. The Iron Mountain Company made a test to determine the revenues and expenses of the intrastate business in the State of Arkansas. This Court held that the test, which was much more accurate than any evidence which was introduced before the Commission in this proceeding, was not sufficiently accurate, saying (p. 558):

It was objected, however, that the periods selected for these tests were not representative; that the month of October, 1907, in particular, was abnormal because of an unusual congestion of traffic, and that the use of the statistics for October, 1908, was also open to objection, as they did not show such a fair average of the business as would enable the court to reach a correct conclusion. The court below took this view, but it was of the opinion that proper allowances might be made which would equalize these conditions. In this view, and for the purpose of correcting assumptions deemed to be erroneous, the court defined the basis of apportionment of the various items of outlay in accordance with which new computations were made * * *.

We shall not attempt to review in detail these calculations upon which the decree is based. While they represent a most serious effort to effect a reasonable apportionment, we are convinced, from our examination of the evidence, that they have the same infirmity which was found to exist in the computations in the Minnesota and Missouri Rate cases. Simpson *v.* Shepard, *supra;* Knott *v.* Chicago, B. & Q. R. Co., decided this day (230 U. S. 474).

VII.

The Commission made findings, arrived at its conclusions, and entered its order upon assumptions of fact not supported by the evidence before it and upon matters which were not introduced in evidence.

It has been repeatedly held by this Court that it is beyond the power of the Commission to make a finding without evidence or to treat as evidence that which was not introduced in the proceeding before it as such. All the evidence before the Commission was introduced in the

court below, and is in substance incorporated in the present record. This Court has consistently held that, in a suit to set aside an order of the Commission, where all of the evidence before the Commission has been incorporated in the record on appeal, the Court will consider the objection that essential findings made by the Commission were not supported by the evidence and that the Commission considered matters not in evidence. *Interstate Commerce Commission* v. *Louisville & Nashville R. Co.*, 227 U. S. 88, 91, 93; *Chicago Junction* case, 264 U. S. 258; *State of Colorado* v. *United States*, 271 U. S. 153, 166; *New England Divisions* case, 261 U. S. 184, 203; *United States* v. *Abilene & S. Ry. Co.*, 265 U. S. 274, 286.

(a) As the formula for the division of the revenue from the joint rates, the Commission prescribed an "assumed" rate prorate based upon percentages of the first-class rates under the Southwestern rate scale, which was established in the Consolidated Southwestern Cases, 123 I. C. C. 203, although neither that scale nor formula was in evidence in this proceeding before the Commission.

As hereinbefore pointed out, the Commission found that the cost of service, including a fair return on investment, was "somewhere in the neighborhood of 20 per cent. greater in the Southwest than in the Western Trunk Line group, based on averages of 1923 and 1924 operations, and somewhere in the neighborhood of 17 per cent. greater based on 1924 operations" (R. 83). But it did not prescribe divisions which would accord to the Southwestern respondents 17 to 20 per cent. more per ton per mile than to the Western Trunk Lines. It assumed that if the joint rates involved were divided as between the two groups of carriers upon percentages arrived at by the use of *assumed*

rates for the individual hauls in the two territories, the respondents in the Southwest would be accorded their just and equitable proportions of the joint revenues. These assumed rates are percentages of the first class rates under the "present Southwestern scale".

The first class rates under the "present Southwestern scale" referred to by the Commission consist of a mileage scale of rates prescribed for application, on first class traffic, between points in Southwestern territory, in *Consolidated Southwestern Cases,* 123 I. C. C. 203. The original report in that case was issued under date of April 5, 1927, and the decision did not become effective until July 14, 1928, after the issuance of a report on reconsideration (139 I. C. C. 535).

The majority of the Commission stated in its report on reconsideration in this case that the Southwestern scale was in evidence (R. 97). This is obviously erroneous, since the date of final hearing before the Commission was June 29, 1926 (R. 1103, 1069), almost a year prior to the time when the Southwestern scale was first promulgated.

The "present Southwestern scale" is a fundamental part of the formula prescribed by the Commission in this proceeding, and the use of it by the Commission without its having first been introduced in evidence, together with the proposed formula, was highly prejudicial to petitioners. Commissioner Brainerd in his dissenting opinion in the Divisions Case said (R. 92):

> Such formula was not considered by the parties in interest at the hearing but its application is proposed here for the first time.

There was no issue in the proceeding before the Commission as to the use of such a formula and scale as the basis

for determining the proper divisions of the joint rates involved, and appellants had no notice that such a basis would be used, or that the same would be considered in connection with the Commission's determination of the just, reasonable and equitable divisions of the joint rates involved. Appellants have therefore never had an opportunity to present evidence to the Commission concerning the propriety or impropriety of the use of that scale and formula in the adjustment of the divisions of the joint rates involved. Their petition for a rehearing and to introduce additional testimony was denied. They have never had an opportunity to present to the Commission any evidence as to the relationship of that scale to the cost of transporting the traffic interchanged between the respondents.

(b) The Commission neither introduced nor had before it for consideration evidence showing the cost of operation, investment, etc., confined to those portions of respondents' lines which are located within the territories involved in the divisions proceeding.

The Commission's investigation was confined to that portion of respondents' lines within Southwestern territory and Western Trunk Line territory.

The lines of respondents are not all confined to one or the other of these territories, but many of respondents have considerable mileage in other territories. For example, the Atchison, Topeka & Santa Fe Railroad[7] and the Rock

[7] The Santa Fe operates over 9,000 miles of line, none of which is in Southwestern territory with the exception of 1,200 miles in Oklahoma (R. 278). The divisions of the Santa Fe, Rock Island and Missouri Pacific on traffic via Kansas City, to and from points in Oklahoma, are not covered by the Commission's order (R. 56, 109). The Missouri Pacific and Rock Island have extensive mileage in Kansas, Colorado and other Western Trunk Line states (R. 278).

Island Railway, and the Missouri Pacific Railroad are in both Southwestern and Western Trunk Line territories, and also extend into other territories west of Southwestern territory (R. 354). Of the total mileage of 24,041 miles operated by these three railroads in 1924, only 14.36 per cent was in Western Trunk Line territory and 25.13 per cent in the Southwest (R. 354). (This does not include the Texas lines, which are operated under separate corporate names.) The systems of the Chicago, Milwaukee & St. Paul, the Chicago, Burlington & Quincy and the Chicago & Northwestern railroads all have extensive mileage in the territory west of Western Trunk Line territory as defined by the Commission. Of the total of 10,988.92 miles operated by the Milwaukee in 1924, 2555.85 miles were in territory west of Western Trunk Line territory, in Idaho, Montana and Washington. Of the total of 7,083.68 miles operated by the Chicago & Northwestern, 1,379.15 miles were in Wyoming and Nebraska (R. 353). The record does not disclose the extent of the Burlington mileage west of Western Trunk Line territory, in Nebraska, Colorado, Wyoming and Montana. It has extensive mileage west of the Missouri River (R. 278; see also Map, Exhibit A-11).

Notwithstanding the extensive mileage of these important lines in other territories, the Commission considered the expenses, revenues and investment for the entire systems of these railroads in arriving at the "constructive revenues" required in the two territories (R. 80, 82). There was no evidence before the Commission relative to the condition of, nor amount of investment in, those portions of the railroads confined strictly to the territorial groups except the data with reference to traffic density. Neither the "complainants" nor the Commission made a bona fide

effort to place such evidence in the record, although the burden of proof was upon the Western Trunk Line respondents (*United States* v. *Abilene & Southern R. Co.*, 265 U. S. 274). Nor was the evidence confined to the railroads which were made respondents herein.

The prejudice to appellants resulting from the consideration by the Commission of such inaccurate, inappropriate and wholly inapplicable evidence is shown by the admissions made by operating officials of certain Western Trunk Lines that the operating conditions were less favorable and the investment per mile of road greater on the portions of their lines in the territory west of "Western Trunk Line territory" than on the portions of those lines within that territory (Witness Harstad as to the C. M. & St. P., R. 349-50; and Witness Vilas as to the C. & N. W., R. 324). One of the principal witnesses for the Western Trunk Line respondents said (R. 278):

> I would not say the operating conditions or the general conditions were at all similar in what has been termed in this case Western Trunk Line territory and in the states of Washington, Oregon, California, Nevada, Utah, Montana and the Dakotas.

There was no evidence to the contrary.

As heretofore stated, the Commission recognized the inaccuracy and the inapplicability of the information upon which it made its principal findings[8] and attempted to justify the use of system figures by consideration of matters not of record in the proceeding before it (R. 83).

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[8] The Commission has repeatedly condemned the use of system figures in similar situations. *Wichita Northwestern Ry. Co.* v. *C. R. I. & P. Ry. Co.*, 81 I. C. C. 513, 517; *Salina & Northern R. R.* v. *A. T. & S. F. Ry. Co.*, 92 I. C. C. 475, 480; *Nevada-California-Oregon Divisions*, 73 I. C. C. 330, 335; *Missouri & North Arkansas Divisions Case*, 98 I. C. C. 119, 129.

There was no bona fide attempt to determine the relative cost and relative constructive revenue on the particular joint traffic involved in the proceeding, although that was the "precise" question which the Commission had in mind. It is intimated by the Commission that this could not be determined, but it is well known that it might have been ascertained with a fair degree of accuracy by conducting a test if by no other method. In *Northern Pacific Ry. Co.* v. *Department of Public Works,* 268 U. S. 39, this Court said (p. 43):

> A precise issue was the cost on each railroad of transporting logs in carload lots in western Washington, the average haul on each system being not more than 32 miles. In using the above composite figure in the determination of this issue the department necessarily ignored, in the first place, the differences in the average unit cost on the several systems, and then the differences on each in the cost incident to the different classes of traffic and articles of merchandise, and to the widely varying conditions under which the transportation is conducted. In this unit cost figure no account is taken of the differences in unit cost dependent, among other things, upon differences in the length of haul, in the character of the commodity, in the configuration of the country, in the density of the traffic, in the daily loaded car movement, in the extent of the empty car movement, in the nature of the equipment employed, in the extent to which the equipment is used, and in the expenditures required for its maintenance. Main line and branch line freight, interstate and intrastate, carload and less than carload, are counted alike. The department's error was fundamental in its nature. The use of this factor in computing the operating costs of the log traffic vitiated the whole

process of reasoning by which the department reached its conclusion.

(c) The Commission assumed and considered other matters and statistics not introduced as evidence.

(1) *Statistics of certain roads operating wholly in Western Territory.*

In its report on reconsideration the Commission considered the average operating revenues, average operating expenses and average hauls of the Great Northern, the Northern Pacific, the Western Pacific, and the Union Pacific (R. 106). None of these statistics were in evidence, but, as is admitted by the Commission, they were "extracted from the annual reports for 1924" (R. 106) to indicate that the conditions on those portions of the lines of the Milwaukee, the Burlington and the Chicago and North Western railroads lying west of Western Trunk Line territory are not less favorable than on the portions of those lines in Western Trunk Line territory. This assumption was not only without any evidence whatever to support it, but was, as heretofore pointed out, contrary to the only evidence of record on the subject. Substantially the same procedure upon the part of the Commission was expressly condemned by this Court in the *Orient* case, *United States v. A. & S. Ry. Co.*, 265 U. S. 274, 289.

(2) *Assumption that conditions are more favorable in Official and Mississippi Valley territories than in Western Trunk Line territory.*

In attempting to justify its use of system figures for railroads having substantial mileage outside the territories involved, the Commission said, at page 475 of its original report (R. 83):

> The Western Trunk Line group also contains systems, such as the Wabash and the Illinois Central, which extend beyond its eastern boundary into official territory with its more favorable operating conditions and, in the case of the Illinois Central, into the Mississippi Valley portion of Southern territory.

There was no evidence in the proceeding before the Commission concerning the operating conditions in Official territory or in the Mississippi Valley. This is tacitly admitted by the Commission in its report on reconsideration (R. 105-6).

(3) *Traffic densities for the year 1927 segregated by states, not in evidence.*

In its original report, the Commission used traffic density figures for the year 1927 segregated by states (R. 77). These figures were not introduced in evidence at the hearings and could not have been because the date of final hearing was June 29, 1926. At the argument it was stipulated that the "*annual reports* of all the lines may be referred to by the Commission for such information as it wishes to get from them" (R. 1266). But "annual reports" of the carriers to the Commission do not contain traffic density figures segregated by states.

The Commission recognized this in its report on reconsideration, saying (R. 101):

> The data referred to are incorporated in special reports now secured annually by our Bureau of Statistics. We believe that the stipulation was broad enough to cover these reports.

Witness Hensley testified, in the Court below, that the term "annual reports" has a well understood significance; that the annual report is an annual return made to the

Commission by the carriers giving information on a printed form prescribed by the Commission; that it does not call for a statement of the traffic density of carriers segregated as to each state, that is, showing the traffic density in each state through which the carrier operates; and that he does not make any report to the Interstate Commerce Commission as to the traffic density by states (R. 1237). (See section 20 of the Interstate Commerce Act, 41 Stat. L. 493, for provisions relative to annual reports.)

The Commission was not justified in using traffic density figures for 1927 which were not in evidence, merely to corroborate conclusions drawn from other evidence. Even if it be a fact that the figures are correct, that would not justify their use if they were not in evidence. Statements, even though true, are often subject to explanation. Under the law, appellants were entitled to have everything which the Commission considered in arriving at its conclusions introduced in evidence at the hearings before the Commission.

Respectfully submitted,

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September 29, 1930.

Exhibit A.

List of all carriers whose railroads are located, wholly or partly, in Western Trunk Line territory and Southwestern territory as those territories were defined by the Interstate Commerce Commission. This list is taken from Petitioners' Exhibit 20 (R. 1237-1244).

1. Carriers in Western Trunk Line Territory:

(The names of the carriers which were made parties in the above proceeding have been printed in italics.)

Class I:

The Atchison, Topeka and Santa Fe Railway Company.
The Baltimore and Ohio Railroad Company.
Canadian National Railways.
The Chesapeake and Ohio Railway Company.
Chicago and Northwestern Railway Company.
The Chicago and Alton Railroad Company.
Chicago, Burlington & Quincy Railroad Company.
Chicago and Eastern Illinois Railway Company.
Chicago Great Western Railroad Company.
Chicago and Illinois Midland Railway Company.
Chicago, Indianapolis and Louisville Railway Company.
Chicago, Milwaukee, St. Paul and Pacific Railroad Company.

(Made party as Chicago, Milwaukee & St. Paul Railway Company (R. 1170), and no substitution made of its successor, Chicago, Milwaukee, St. Paul & Pacific Railway Company.)

The Chicago, Rock Island and Pacific Railway Company.
Chicago, St. Paul, Minneapolis and Omaha Railway Company.

The Cleveland, Cincinnati, Chicago and St. Louis Railway Company.
The Duluth and Iron Range Railroad Company.
Duluth, Missabe and Northern Railway Company.
The Duluth, South Shore and Atlantic Railway Company.
Elgin, Joliet and Eastern Railway Company.
Erie Railroad Company.
Grand Trunk Railway System.
Great Northern Railway Company.
Green Bay and Western Railroad Company.
Illinois Central Railroad Company.
Lake Superior & Ishpeming Railroad Company.
Louisville and Nashville Railroad Company.
The Michigan Central Railroad Company.
The Minneapolis & St. Louis Railroad Company.
Minneapolis, St. Paul & Sault Ste. Marie Railway Company.
Missouri-Kansas-Texas Railroad Company.
Missouri Pacific Railroad Company.
Mobile & Ohio Railroad Company.
The New York Central Railroad Company.
The New York, Chicago and St. Louis Railroad Company.
Northern Pacific Railway Company.
The Pennsylvania Railroad Company.
Pere Marquette Railway Company.
Quincy, Omaha & Kansas City Railroad Company.
The St. Joseph and Grand Island Railway Company.
St. Louis Southwestern Railway Company.
Southern Railway Company.
Toledo, Peoria & Western Railway Company.
Union Pacific Railroad Company.
Wabash Railway Company.

CLASS II:

Alton & Eastern Railroad Company.
Chicago, Springfield & St. Louis Railway Company.
Copper Range Railroad Company.
Davenport, Rock Island and Northwestern Railway Company.
Duluth & Northeastern Railroad Company.
Escanaba and Lake Superior Railroad Company.
Farmers Grain and Shipping Company.
Illinois Terminal Company.
Jacksonville & Havana Railroad Company.
Jefferson Southwestern Railroad Company.
Kewanee, Green Bay and Western Railroad Company.
LaCrosse and Southeastern Railway Company.
Litchfield and Madison Railway Company.
Manistique and Lake Superior Railroad Company.
Marinette, Tomahawk & Western Railroad Company.
Midland Continental Railroad.
Mineral Range Railroad Company.
Mineral Point and Northern Railway Company.
Minneapolis, Northfield and Southern Railway.
Minneapolis & Rainy River Railway Company.
Minneapolis, Red Lake and Manitoba Railway Company.
Minnesota, Dakota & Western Railway Company.
Minnesota and International Railway Company.
Minnesota Western Railroad Company.
Missouri-Illinois Railroad Company.
Paducah & Illinois Railroad Company.
Rock Island Southern Railway Company.
St. Louis and Hannibal Railroad Company.
The St. Louis and O'Fallon Railway Company.
St. Louis and Ohio River Railroad.
Wisconsin & Michigan Railroad Company.

CLASS III:

Atlantic Northern Railway Company.
Cape Girardeau Northern Railway Company.
Cezenovia Southern Railroad Company.
The Ettrick & Northern Railroad Company.
The Galesburg and Great Eastern Railroad Company.
Hanover Railway Company.
Hillsboro and Northeastern Railway Company.
Hoophole, Yorktown and Tampico Railroad Company.
Houghton, Chassell & Southwestern Railway.
The Kansas & Sidell Railroad Company.
Laona & Northern Railway Company.
Macomb, Industry & Littleton Railway Company.
Manchester and Oneida Railway Company.
Ontonagon Railroad Company.
Peoria, Hanna City & Western Railway Company.
Rapid City, Black Hills & Western Railroad Company.
Rockport, Langdon & Northern Railway Company.
Rutland, Toluca & Northern Railroad Company.
Shelby County Railway Company.
Superior & Southeastern Railway Company.
Tabor and Northern Railway Company.
The Westfield Railroad Company.
Yale Short Line Railroad Company.

2. CARRIERS IN SOUTHWESTERN TERRITORY:

(The names of the carriers which were made parties in the above proceeding have been printed in italics.)

CLASS I:

The Atchison, Topeka and Santa Fe Railway Company.
The Beaumont, Sour Lake & Western Railway Company.
The Chicago, Rock Island and Gulf Railway Company.
The Chicago, Rock Island and Pacific Railway Company.

Fort Smith and Western Railway.
Fort Worth and Denver City Railway Company.
Fort Worth & Rio Grande Railway Company.
Gulf, Colorado and Santa Fe Railway Company.
International-Great Northern Railroad Company.
The Kansas City, Mexico and Orient Railway Company.
Kansas City, Mexico and Orient Railway Company of Texas.
The Kansas City Southern Railway Company.
Kansas, Oklahoma & Gulf Railway Company.
Kansas, Oklahoma & Gulf Railway Company of Texas.
Louisiana & Arkansas Railway Company.
Louisiana Railway and Navigation Company.
Louisiana Railway & Navigation Company of Texas.
Midland Valley Railroad Company.
Missouri-Kansas-Texas Railroad Company.
Missouri-Kansas-Texas Railroad Company of Texas.
Missouri and North Arkansas Railway Company (W. Stephenson, Receiver).
Missouri Pacific Railroad Company.
New Orleans, Texas & Mexico Railway Company.
Panhandle and Santa Fe Railway Company.
The St. Louis, Brownsville and Mexico Railway Company.
St. Louis-San Francisco Railway Company.
St. Louis, San Francisco and Texas Railway Company.
St. Louis Southwestern Railway Company.
St. Louis Southwestern Railway Company of Texas.
San Antonio, Uvalde & Gulf Railroad Company.
Texarkana and Fort Smith Railway Company.

(This company was excluded from the list of respondents in the supplemental order (R. 1220-1221), since it had not been made a party to the proceeding.)

Texas and New Orleans Railroad Company.
The Texas Mexican Railway Company.

The Texas and Pacific Railway Company.
The Trinity and Brazos Valley Railway Company (John A. Hulen, Receiver).
The Wichita Valley Railway Company.
The Yazoo and Mississippi Valley Railroad Company.

CLASS II:

Abilene and Southern Railway Company.
Arkansas & Louisiana Missouri Railway Company.
Ashley, Drew & Northern Railway Company.
Blytheville, Leachville & Arkansas Southern Railroad Company.
Brimstone Railroad & Canal Company.
Cisco & Northeastern Railway Company.
Deering Southwestern Railway.
DeQueen and Eastern Railroad Company.
Galveston, Houston and Henderson Railroad Company.
Graysonia, Nashville & Ashdown Railroad Company.
Groveton, Lufkin & Northern Railway Company.
The Gulf & Sabine River Railroad Company.
Gulf, Texas & Western Railway Company (W. Frank Knox, Receiver).
Houston and Brazos Valley Railroad Company.
The Louisiana and North West Railroad Company.
Miami Mineral Belt Railroad Company.
Mississippi River and Bonne Terre Railway.
Missouri-Illinois Railroad Company.
Missouri Southern Railroad Company.
New Iberia & Northern Railroad Company.
Northeast Oklahoma Railroad Company.
Oklahoma City-Ada-Atoka Railway Company.
Oklahoma-Southwestern Railway Company.
Oklahoma Union Railway Company.
Okmulgee Northern Railway Company.
The Orange & Northwestern Railroad Company.
Osage Railway Company.

Paris and Mt. Pleasant Railroad Company (R. W. Wortham, Receiver).
The Prescott and Northwestern Railroad Company.
Quanah, Acme & Pacific Railway Company.
Reader Railroad.
Red River and Gulf Railroad.
Rio Grande and Eagle Pass Railway Company.
Roscoe, Snyder and Pacific Railway Company.
San Antonio Southern Railway Company.
San Benito & Rio Grande Valley Railway Company.
The Slago & Eastern Railroad Company.
Sugar Land Railway Company.
Texas Southeastern Railroad Company.
Texas, Oklahoma & Eastern Railway Company.
Tremont & Gulf Railway Company.
Waco, Beaumont, Trinity & Sabine Railway Company.
The Weatherford, Mineral Wells & Northwestern Railway Company.
Wichita Falls & Southern Railroad Company.

CLASS III:

Angelina & Neches River Railroad Company.
Aransas Harbor Terminal Railway.
Arkansas Railroad Company.
Arkansas Short Line.
The Arkansas Western Railway Company.
Asherton and Gulf Railway Company.
Asphalt Belt Railway Company.
Augusta Railroad Company.
Bartlett Western Railway.
Bauxite & Northern Railway Company.
Beaver, Meade and Englewood Railroad Company.
Brookings & Peach Orchard Railroad Company.
Caddo & Choctaw Railroad Company.
Cairo, Truman & Southern Railroad Company.
Cape Girardeau Northern Railway Company (Clarence L. Grant, Receiver).

Caro Northern Railway Company (W. M. Ross, Receiver).
Central Railway Company of Arkansas.
Christie & Eastern Railway Company.
Dardanelle & Russellville Railroad Company.
The Denison and Pacific Suburban Railway Company.
Doniphan, Kensett & Searcy Railway.
Eastland, Wichita Falls & Gulf Railroad Company.
East Texas and Gulf Railway Company.
El Dorado and Wesson Railway Company.
Fordyce and Princeton Railroad Company.
Fort Smith, Subiaco & Rock Island Railroad Company.
Fredericksburg & Northern Railway Company.
Gideon and North Island Railroad Company.
Grand Prairie-Branch Railroad Company.
Gulf & Northern Railway Company.
Hamlin & Northwestern Railway Company of Texas.
Jefferson & Northwestern Railway Company.
Kinder & Northwestern Railroad Company.
Leesville, Slagle and Eastern Railway Company.
The Louisiana & Pine Bluff Railway Company.
Louisiana Southern Railway Company.
Lufkin, Hemphill and Gulf Railway Company.
Manila & Southwestern Railway Company.
The Mansfield Railway & Transportation Company.
Marshall, Elysian Fields and Southeastern Railway Company.
Montana Railroad.
Moscow, Camden & San Augustine Railroad.
Murfreesboro-Nashville Southwestern Railway Company.
The Nacogdoches & Southeastern Railroad Company.
The Natchez, Urania and Ruston Railway Company.
North Louisiana & Gulf Railroad Company.
Oakdale & Gulf Railway Company.
Oklahoma & Rich Mountain Railroad Company.

Ouachita and Northwestern Railroad Company.
The Pecos Valley Southern Railway Company.
Pittsburg County Railway Company.
Port Isabel & Rio Grande Valley Railroad.
Rio Grande City Railway Company.
Rio Grande, Micolithic and Northern Railway.
The Roby and Northern Railroad Company.
Rockdale, Sandow & Southern Railway.
Sabine & Neches Valley Railway Company.
The Sibley, Lake Bisteneau & Southern Railway Company.
Shreveport, Houston & Gulf Railroad Company.
Texas-New Mexico Railway Company.
Texas Short Line Railway Company.
Thornton and Alexandria Railway Company.
Trinity Valley & Northern Railway Company.
Trinity Valley Southern Railroad Company.
The Union Traction Company (John F. Layng, Receiver).
Uvalde & Northern Railway Company.
Warren & Ouachita Valley Railway Company.
Warren & Saline River Railroad Company.
(R. 1238-1244.)

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1930.

No. 44.

THE BEAUMONT, SOUR LAKE & WESTERN RAILWAY COMPANY, *et al.*,
Appellants,

v.

THE UNITED STATES OF AMERICA, *et al.*,
Appellees.

No. 45.

THE UNITED STATES OF AMERICA, *et al.*,
Appellants,

v.

THE BEAUMONT, SOUR LAKE & WESTERN RAILWAY COMPANY, *et al.*,
Appellees.

REPLY BRIEF OF APPELLANTS AND CROSS-APPELLEES.

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E. T. MILLER,
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October 18, 1930.

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REPLY BRIEF OF APPELLANTS AND CROSS-APPELLEES.

COMMENT ON VARIOUS STATEMENTS IN THE BRIEF OF THE WESTERN TRUNK LINES.

We wish to call attention to a number of statements in the brief of the Western Trunk Lines which, we fear, are likely to prove misleading.

(1) The losses in revenue of the individual Southwestern respondents, shown in the evidence, were net losses to them.

Some of the statements in the brief give the impression that it is entirely problematical whether any particular Southwestern line will lose or gain revenue as the result of the Commission's order. Counsel say (p. 24):

> Nor does the order of the Commission produce the results alleged by appellants at pages 43, *et seq.*, of their brief. It does not require Kansas City, Mexico & Orient Railway, the St. Louis Southwestern Railway Company of Texas, the Kansas, Oklahoma & Gulf Railway, and the Louisiana Railway & Navigation Company to pay any amounts to any railroad in Western Trunk line territory, and does not require the Missouri-Kansas-Texas Railroad or the Kansas City Southern to pay the amounts mentioned by appellants to the Illinois Central and Burlington. As we have heretofore pointed out, the order only relates to the division of total revenue at the junctions where the traffic is interchanged between the Western Trunk lines and the Southwestern lines. As we have also pointed out, the divisions of the Western Trunk lines are not increased on all traffic.
>
> In cases where the order increases the revenue of the Western Trunk lines, the Southwestern lines which will lose money cannot be determined until a subdivision of revenue is agreed upon by the Southwestern lines.

The statement introduced in evidence on behalf of The Kansas City Southern Railway Company (R. 1229) showed a net loss in revenue of $211,337.04 per annum resulting to that company (including its Texas subsidiary) on account of the challenged order; the estimate being based on the business for the month of September, 1928. As stated in a note (R. 1230):

> This statement includes only changes in K. C. S.-T. & F. S. revenues; it does not include additional increases and decreases which will accrue to the Western Trunk Line railroads from other South-

western roads which may have participated in any of this traffic.

The witness testified that if the Commission's order was also applied to revenue from traffic originating and terminating on the non-respondent lines in Southwestern territory and Western Trunk Line territory, the loss to The Kansas City Southern Railway Company would amount to $361,282.88 per annum, instead of the $211,337.04 per annum shown in the above statement.

The statement of the Missouri-Kansas-Texas Railroad Company, including the Missouri-Kansas-Texas Railroad Company of Texas (R. 1231-1233), showed the entire detail of the estimate of the loss in revenue of that company that would be occasioned by the enforcement of the order. It gave the increases and decreases in revenue, and the resulting net loss.

The statement introduced on behalf of the Texas & New Orleans Railroad Company (R. 1233, 1234) did show the loss of the Southwestern carriers as a whole on account of the Commission's order; but the statements introduced by the Kansas City Southern, the Missouri-Kansas-Texas and the Louisiana Railway & Navigation Company (R. 1234) showed only the net losses of those particular lines.

With reference to the Kansas, Oklahoma & Gulf Railway and the Louisiana Railway & Navigation Company, the point made by the Western Trunk Lines is that neither of those railroads reaches with its own rails the gateways at Kansas City and St. Louis. The order of the Commission, however, by its express terms, does not apply to all the joint traffic through those gateways, but only to such traffic as originates or terminates on the line of one of the respondents. As to such traffic originating or terminating

on the line of the Kansas, Oklahoma & Gulf Railway or the Louisiana Railway & Navigation Company, the Western Trunk Lines cannot seriously contend that the divisions of those railroads would not be reduced. The statement of the Louisiana Railway & Navigation Company (R. 1234) shows that its net loss on account of the divisions order, based on business for the month of September, 1928, will amount to about $670.00 per annum.

The net loss in revenue of all the respondent Southwestern Lines under the order as it now stands is shown for the month of September, 1928, in Exhibit 10, facing R. 1226. This includes, in the main, the direct loss in revenue of those carriers on interchange traffic having origin or destination on their lines. As a matter of lesser importance, it also includes the loss in revenue sustained by the respondent Southwestern Lines where the non-respondent Southwestern Lines act as intermediate carriers of traffic having origin or destination on a respondent Southwestern line, and the effect of which is to reduce the divisions of the intermediate non-respondent carriers, and also the divisions of the respondent carriers over which the shipment moves.

The same exhibit shows the loss in revenue that will be sustained by the non-respondent Southwestern Lines for the same period if the Commission's order is extended to them, as counsel for the Western Trunk Lines insists will be done. In this statement is also included, although not separately stated, the additional loss of the respondent Southwestern carriers which they will sustain over and above the loss they now stand to suffer under the order as it stands. This additional loss will arise from the extension of the order so as to include traffic having origin or

destination on the lines of the non-respondent Southwestern carriers. As to this traffic, it will be remembered, the old divisions remain in effect, notwithstanding the order. If those divisions are reduced by the extension of the order to the non-respondent carriers, the divisions of the respondent carriers as to traffic of this nature passing over their rails will also be reduced. To illustrate by a concrete instance, we take the Midland Valley, which is a non-respondent Southwestern carrier. A considerable amount of the interchange traffic in question has origin or destination on the Midland Valley and passes over the Kansas City Southern. On this traffic the old basis of divisions is still in effect, and is not affected by the terms of the order, because it does not have origin or destination on the Kansas City Southern, which is a respondent; its origin or destination being on the Midland Valley, a non-respondent. But if the Commission's order is extended to the Midland Valley, the reduced divisions will, of course, affect the Midland Valley, and as the traffic passes over the Kansas City Southern as an intervening carrier, the latter's divisions will also be reduced.

(2) The Commission's omission to make all interested carriers parties to the proceeding.

Since this matter has a bearing on various contentions made by the appellants, we wish to add a few words of explanation.

The Commission's order of October 8, 1923 (R. 1169-1170) was to the effect that evidence would be received only with respect to divisions between Western Trunk Line territory and Southwestern territory; and the natural inference therefrom would be that the Commission intended

to investigate the divisions upon all the joint traffic between those territories, as they were defined by the Commission, "with a view" to prescribing just and equitable divisions, if those in effect were found to be unreasonable. The Commission omitted, however, from the list of respondents a large number of Class I railroads, which have considerable mileage in the territory which it had designated as Western Trunk Line territory. To mention only a few, for illustration: the Pennsylvania Railroad; the New York, Chicago & St. Louis Railroad; the Cleveland, Chicago, Cincinnati & St. Louis Railway, and the Louisville & Nashville Railroad have lines of railroad extending from St. Louis entirely across the State of Illinois, in this Western Trunk Line territory; but none of them were made parties respondent.

Counsel for the Western Trunk Lines (R. 436-437) put in evidence a list of what he termed the principal carriers in Southwestern territory and Central Western and Northwestern territory, which latter territories include the Western Trunk Line territory as designated by the Commission. In that list were included, as principal lines in those territories, the following carriers which were omitted by the Commission from this proceeding:

In Western Trunk Line territory—

Duluth & Iron Range Railroad
Duluth, Missabe and Northern Railway
Duluth, South Shore and Atlantic Railway
Duluth, Winnipeg & Pacific Railroad
Green Bay and Western Railroad
Lake Superior & Ishpeming Railroad
Chicago, Peoria & St. Louis Railroad.

And in the Southwestern territory—

Fort Smith and Western Railway
Forth Worth & Rio Grande Railway
Louisiana & Arkansas Railway
Midland Valley Railroad
Missouri and North Arkansas Railway
Texarkana and Fort Smith Railway
Trinity & Brazos Valley Railroad
Wichita Valley Railroad.

The list printed as Exhibit A to our original brief shows the large number of other railroads which have lines in Southwestern territory and Western Trunk Line territory which were also omitted. The order of the Commission applies to only two-thirds of the joint traffic (Exhibit 10, opposite R., p. 1226).

Counsel, at page 11 of their brief, say:

> * * * It is said that the Louisiana & Arkansas Railway, Midland Valley Railroad and the Texarkana & Fort Smith Railway will not be required to pay increased divisions to the Western Trunk lines under the Commission's order, since they are not respondents, and that the Louisiana Railway & Navigation Company, Kansas, Oklahoma & Gulf Railway and Kansas City Southern Railway will be required to pay, as they are respondents. This is not a correct statement of the effect of the Commission's order.
>
> The order only deals with the divisions north and south of Kansas City, St. Louis, East St. Louis, Cairo, Gale and Thebes (R. 109). These are the junctions upon which the divisions between the Southwestern lines and Western Trunk lines are made. The order does not relate to and does not affect the subdivisions of the revenue north and

south of those junctions, nor was it necessary that it should.

Our statement was substantially correct. The order, by its terms, does not change the divisions as to traffic originating or terminating at points on the lines of the Louisiana & Arkansas Railway, Midland Valley Railroad, and the Texarkana & Fort Smith Railway since they were not respondents in the proceeding. If the last-named railroads should be intermediate carriers of any shipment to which the order applies (because the shipment originates or terminates on the line of a respondent), it is assumed, as above stated, that their divisions will be reduced proportionately on that traffic which is probably small in amount, but the statements of net loss of Kansas City Southern, Missouri-Kansas-Texas, etc., as above stated, include this element of loss to the non-respondent carriers. On the point which we were bringing out, however, our statement was entirely correct; that is, that as to traffic originating or terminating at points on those non-respondent railroads the Commission's order does not change the present divisional basis.

We did not assume that the order requires an increase to the Western Trunk Lines on all traffic, as stated on page 11 of the brief. The statement contained in Petitioner's Exhibit 10 (R. 1226) and the statements of the individual carriers which were introduced, showed the net loss after giving effect to increases as well as decreases. With reference to the statements on this subject which were introduced by the appellants, they constitute a careful and thorough estimate of the result of the Commission's order, and no evidence was introduced which even tended to show that they were not substantially correct.

(3) Substantially all of the Southwestern respondents except those that also have important lines in the Western Trunk Line territory joined in the suit.

Counsel on page 12 of their brief say:

> Included in the list of carriers which have not attacked the Commission's order are such important lines as the Atchison, Topeka & Santa Fe Railway Company; Chicago, Rock Island & Pacific Railway Company; Chicago, Rock Island & Gulf Railway Company; Gulf, Colorado & Santa Fe Railway Company, and Panhandle & Santa Fe Railway Company.

All of the railroads above named are parts of the Santa Fe System and Rock Island System, both of which, as stated by the Commission, have important lines in both territories (R. 58). The only other Southwestern respondents which did not join in this suit were the Kansas City, Mexico & Orient, which has now become a part of the Santa Fe System, and the Vicksburg, Shreveport & Pacific Railway, which has now become a part of the Illinois Central System, a Western Trunk Line respondent, and the Kansas, Oklahoma & Gulf Railroad, a small independent carrier.

(4) Appellants have contended at all times that the evidence was insufficient.

The Western Trunk Lines, at page 16 of their brief, say:

> It should be observed that appellants nowhere contend that the record did not contain the evidence which they claim the Commission should have considered but did not.

We have pointed out in our original brief numerous instances where we contend the record is not sufficient to

sustain the Commission's findings and order. We have contended that the order is based upon group averages, and not upon a consideration of the financial and operating conditions of the individual carriers, as the statute requires; that there was no evidence in the record as to the cost of operations, earnings and other data with respect to the interchange traffic in question; that there was no evidence on which the Commission could form a judgment as to a fair return on the property of each carrier employed in the interchange traffic in question; that there was no evidence to support the Commission's finding or assumption that the average hauls of the Western Trunk Lines and Southwestern Lines were substantially the same; that there was no evidence to justify the Commission's assumption that the application of its formula would result in giving to the Southwestern carriers the revenue which its findings indicate they should receive; and other matters.

We respectfully dissent from the further statement (p. 16):

> In fact, they have gone to some pains to demonstrate that the record was complete with respect to the rates, divisions and other facts relating to each individual respondent.

Counsel, at page 49 of their brief, say:

> * * * it should be remembered that appellants were as much respondents in the proceeding before the Commission as the Western Trunk Lines, and were under the same obligations with respect to the introduction of testimony if they desired to retain the divisions they were then receiving.

This Court has made it clear that there has been no such reversal in the rule as to the burden of proof. The Com-

mission could not lawfully make an order granting increased divisions to the Western Trunk Lines and taking such revenue from the Southwestern carriers unless there was sufficient evidence to support the order of the Commission. The Western Trunk Lines, as beneficiaries of the Commission's order, were under the obligation of introducing evidence sufficient to support it. This is made clear by the Court's decision in *U. S.* v. *Abilene & Southern R. Co.*, 265 U. S. 274, 289, where this Court says that every case is an adversary one which takes property from one carrier and grants it to another, and the burden of proof is upon the carrier which benefits by the Commission's order.

The Western Trunk Lines, on page 28 of their brief, say:

> Appellants fall into the initial error of assuming that the order of the Commission was made primarily to relieve the financial necessities of the Western Trunk Lines, whereas, this is not the case.

If the order is not based upon financial conditions, there are no findings by the Commission fixing any basis of divisions. The Commission ascertained as the best basis of comparison the amounts required to pay operating expenses, taxes, and other like charges, and a fair return on investment. That has to do with financial conditions.

I.

The Appellees have failed to sustain the Commission's action in issuing a group order based on average conditions, or to justify the arbitrary and inequitable results that flow from its application.

While conceding that the divisions in question were dealt with by the Commission on a group basis, in the light of average group conditions, appellees make no effort to justify the Commission's action on reason or principle, but content themselves with a reference to the *New England Divisions* case, 261 U. S. 184. They contend that that case is conclusive of the one under consideration. But an examination of that decision discloses that it does not decide the question which this Court is called upon to determine, and hence cannot be controlling here.

In the *New England Divisions* case it may be said, in passing, the equities were strongly in favor of the New England lines. They were shown in *Ex Parte* 74, 58 I. C. C. 220 (62 I. C. C. 522), to be entitled, as a group, to a 47.40 per cent. increase in their rates; carriers in Trunk Line territory to a 29.76 per cent. increase; and carriers in Central Freight Association territory to a 24.31 per cent. increase. But the New England carriers were included in the Eastern group, and could not be dealt with separately. The Commission ordered that freight rates in the Eastern group be raised 40 per cent., which was about 15 per cent. higher than would have been awarded except for the inclusion of the New England group. Thus, it appeared that the New England lines, because of their inclusion in the Eastern group, received a smaller increase than they were justly entitled to, and the other carriers in the group, by

reason of such inclusion, received about 15 per cent. more than they were entitled to. This excess approximated $25,000,000. The carriers west of the Hudson River, therefore, became, in a sense, trustees for the New England carriers in said sum, and the effect of the divisions order of the Commission was, in substance, to execute the trust and to require the Western carriers to pay over to the New England carriers a 15 per cent. increase in the divisions of the several New England lines. This Court evidently thought that this adjustment should have been made by the Commission in *Ex Parte* 74. The Commission's action, which this Court approved, was in the nature of a *nunc pro tunc* order. Conceivably, this Court's decision might have been placed on this ground alone.

It is true that this Court approved the use of evidence of divisions typical in character and ample in quantity to justify a finding made with respect to each division of each rate of every carrier. As this Court said later, in the *Orient Divisions* case, 265 U. S. 274, 291, "the power conferred by Congress on the Commission is that of determining, in respect to each joint rate, what divisions will be just". Obviously, it is unnecessary that all of the millions of divisions should be introduced in evidence, and considered and determined as separate problems. Substantial justice may be done if sufficient joint rates and divisions are introduced as to be fairly typical of all. In that manner, through both direct and indirect evidence, all joint rates and divisions are before the Commission and may be properly dealt with.

But the problem of determining just, reasonable and equitable divisions of joint rates does not stop with proof of existing joint rates and divisions. Another step of even

greater importance must be taken before the Commission is authorized to proceed to a determination of the issue. The carriers themselves must be considered. The statute (Section 15 (6)) by express command, enjoins this step, and makes each carrier a separate problem. Evidence must be directed to the operating and financial conditions of each carrier, party to the joint rates in question. The finding and judgment of the Commission must be responsive to such evidence. It is conceivable in theory, at least, that a group of carriers may be so similar in their financial and operating conditions that, upon proof that such is the case, evidence of one or more may be introduced which would fairly represent the financial and operating conditions of all. In other words, it may be possible, where the facts warrant, to receive typical evidence applicable to all carriers in each group. It is conceivable that the Commission may have been justified, particularly in the absence of protests to the contrary, in dealing with the New England lines as essentially similar for all purposes of the proceeding. Certainly, they were alike in their need of financial assistance and in their equitable right to the trust funds collected for their account by the carriers west of the Hudson River. There was likewise a similarity of operating conditions, which the Commission took pains to point out (66 I. C. C. 199), as follows:

> Complainants perform their part of the interchange service under less favorable conditions than their connections west of the Hudson River. They are terminal lines; their hauls are short; their traffic splits at frequent junction points and is diffused over many secondary and branch lines; their trainloads are necessarily relatively light; the density of their freight traffic is relatively low; and while their

investment per mile of road is low, their investment per revenue ton-mile is relatively high. Moreover, no coal mines are located on their rails, and fuel and many other supplies must be brought from considerable distances.

But it is inconceivable that the carriers in Western Trunk Line territory, on the one hand, or carriers in Southwestern territory, or the other, can be regarded as so similar in financial and operating conditions that one or more carriers in either group may be regarded as typical of the others in the group, or so nearly identical as to warrant or justify dealing with all in one group upon a group basis. Each of the two groups contains prosperous carriers, bankrupt carriers, and carriers with varying degrees of financial strength ranging between these two extremes.

How can it be said that any one or more of the carriers in Western Trunk Line territory is typical of the others for the purpose of fixation of divisions under the statute? Is the Chicago & Alton, which is in receivership, typical of the prosperous Burlington? Is the prosperous Illinois Central typical of the Minneapolis & St. Louis, also in receivership? Does proof of the financial and operating conditions of one or more of these lines fairly reflect the financial and operating conditions of the others? Surely, no one will answer these questions in the affirmative.

Will any one contend that any one or more of the carriers in Southwestern territory can be regarded as typical of the others for the purpose of fixation of divisions under the statute? Are the five carriers operating at a deficit to be regarded as typical of the others in the group enjoying a moderate degree of prosperity? Will proof of

the financial and operating conditions of any one or more of the carriers fairly reflect the financial conditions of the others? Merely to ask the question is to answer it.

It should require no argument to demonstrate that the application of the same yardstick to prosperous and bankrupt carriers alike can only result in a miscarriage of justice and a signal defeat of the purposes of the Transportation Act. The *New England Divisions* case gives no support to the theory that the rule of typical evidence may be applied to a group of carriers widely dissimilar in all their characteristics.

The shocking results that inevitably flow from the Commission's group order, based upon average group conditions, are such as instantly to condemn it. Among the carriers in the Western Trunk Line group who are beneficiaries of the Commission's order are the Santa Fe, which for years has been paying 10 per cent. dividends on its common stock in addition to a dividend of 5 per cent. on its preferred stock; the Illinois Central, which has been paying dividends continuously since February 2, 1863—its dividends on its common stock for the past 13 years being at the rate of 7 per cent. per annum; the Burlington, which has paid dividends continuously since 1881, and for the past 9 years at the rate of 10 per cent. on its capital stock; and the Rock Island, which pays dividends at the rate of 7 per cent. on its common stock, and also dividends of 6 and 7 per cent. on its preferred stocks (Poor's Manual). (The Santa Fe and the Rock Island, while in both groups, benefit as Western Trunk Lines from the reduced divisions of the other southwestern carriers.) No intelligent person will claim that these four carriers are in need of financial assistance at the hands of less prosperous carriers. But

their right to have their revenues still further swollen by contributions from less prosperous carriers in Southwestern territory is "definitely fixed" (261 U. S. 202) by the Commission's order which prohibits them from receiving or accepting divisions on any other than the prescribed basis. Even the five carriers in the Southwestern territory operating at a deficit, as shown in our original brief (pp. 15-16), are required to make their contributions. Two beneficiaries of the order, the Soo Line and the Rock Island, are "demanding nothing and not in need" to quote from the *Brimstone* case, 276 U. S. 104, 116. The former "took no part in the case" (R. 58, note 5), and the latter was "neutral" (R. 58). But both are awarded increased revenues at the expense of the Southwestern carriers. It appears from page 10 of Exhibit A-124, facing R. 512, that excluding the Santa Fe and Rock Island from both Southwestern territory and Western Trunk Line territory, the average dividends paid on their capital stock by the Southwestern carriers for the six-year normal period, 1916-1924, was .73 of one per cent.; and that the average dividends paid by the Western Trunk Lines during the same period was 4.28 per cent. The unequal and inequitable result of the application of the Commission's order can only be characterized as fantastic.

If the Burlington, Illinois Central, Rock Island and Santa Fe, or some one or more of them, had been located in the New England territory, is it conceivable that this Court would have approved a drastic divisional order increasing their divisions by 15 per cent., at the expense of the carriers west of the Hudson River, a majority of which, we venture to say, were earning substantially less than the carriers named?

One of the prominent provisions of the Transportation Act, says this Court in the *New England Divisions* case (p. 190) was "specially designed to secure a fair return on capital devoted to the transportation service". The order in the present case offends against this purpose of the law in two important and vital matters. As applied to Southwestern territory, it makes the poor poorer; and as applied to Western Trunk Line territory, it makes the rich richer. No justification can be found for an order which causes such an arbitrary and mischievous result.

But it is urged by the Commission (p. 20) and said by the lower court (R. 1328), that the Commission's order does not preclude individual Southwestern Lines from hereafter showing the Commission any injustice that may result from its application. This argument rests upon the terms of the order which is to remain in effect until the further order of the Commission. The *New England Divisions* case and the *Orient Divisions* case are relied upon.

The general scope of the Commission's report in the *New England Divisions* case was provisional, rather than final. It was to "grant immediate relief, subject to later readjustments" (66 I. C. C. 204), and the order "left the door open for correction upon application of any carrier in respect to any rate" (261 U. S. 187). In the *Orient Divisions* case the order expressly "permitted any carrier to except itself from the order in whole or in part by proper showing" and expressly retained jurisdiction in the Commission for future adjustments.

We have a different situation in the present case. The Commission's reports and its orders both indicate an intention to finally settle and adjust all questions of divisions between the respondent carriers. It does not appear from

the Commission's reports that any further proceeding is contemplated. There was no provision permitting any carrier to except itself from the effect of the order. Nor was there any retention of jurisdiction by the Commission. It is conceivable that the Western Trunk Lines may petition the Commission to extend the reduced divisions to the non-respondent Southwestern carriers. If they should do so and be successful in their efforts, as we have pointed out above, the effect of extending the reduced divisions over respondents' lines, where they are not now in effect, would be to still further reduce the divisions of the Southwestern respondents. It could not possibly increase them.

Certainly, the order, in so far as it affects the rights of Western Trunk line carriers, is a finality. Their divisions were "definitely fixed" by the order, precisely as this Court said the divisions of the New England lines were definitely fixed by the order in their favor (261 U. S. 202). The Western Trunk Lines are required (R. 113) to cease and desist from collecting or receiving divisions upon any other bases.

The fact that the order stated that it was to continue until the further order of the Commission does not indicate any different purpose or intention. That is a routine expression and adds nothing to the inherent power of the Commission to modify any order on good cause shown.

II.

Appellees' argument in support of their contention that the order of the Commission does not operate to confiscate the property of appellants is based upon their claim that there was no evidence before the Commission indicating what constituted a fair return on appellants' property employed in the interchange service in question. If this contention is correct it necessarily follows that the Commission failed to follow the positive command of the statute in that respect, and for that reason its order is invalid.

We contended in our original brief that the Commission's order confiscated the properties of appellants, and that this was proven by the Commission's figures, showing the recorded investments of the different carriers and the small rates of return thereon, which were even then non-compensatory; and by the fact that the Commission's order would still further reduce an already inadequate return. We added that if the recorded investment in railway properties is not to be accepted as value in this case, it must necessarily result that the Commission had no evidence of value before it, and it could not, and did not, therefore, give consideration to "a fair return upon the railway property held for and used in the service of transportation".

Appellees, and particularly the Western Trunk Lines, now take the position in their brief (p. 30) that there is no evidence in the record indicating the value of the property employed in the interchange service in question; nor any evidence of the cost of handling that traffic, and that

there is no evidence of the net return therefrom. They say (p. 30):

> The record contains no segregation of investment chargeable to the traffic affected by the Commission's order, no segregation of the cost of handling that traffic, and no segregation of the net return, derived from handling that traffic, upon the investment chargeable thereto.

If appellees are correct in their contention, then it was obviously impossible for the Commission to obey the mandate of the statute to give consideration to "a fair return on their railway property held for and used in the service of transportation". Congress imposed this duty upon the Commission in plain and unambiguous terms, and the carriers have a clear right to demand compliance therewith. That a failure to comply with the statutory command invalidates its order is too clear for argument. In the *O'Fallon* case, 279 U. S. 461, it appeared that the Commission was required by the statute to give due consideration "to the elements of value recognized by the law of the land for rate-making purposes". It failed to do so, and its order was set aside. The Court said:

> Whether the Commission acted as directed by Congress was the fundamental question presented. If it did not, the action taken, being beyond the authority granted, was invalid.

There is no doubt that the statement of counsel above quoted is literally true; and it must also be true that if the Commission's computations above referred to are to be taken as a compliance with the terms of the Act, requiring consideration to be given to "a fair return", they are con-

clusive evidence that no such return was realized. If, on the other hand, these computations are not to be taken as evidence of a compliance with the Act in this respect, then there was no evidence before the Commission from which it could give consideration to "a fair return"; and, consequently, it did not do so. In the one alternative, confiscation is shown; in the other alternative, the failure to obey the command of the Act is proven. In either event, the Commission's order cannot stand.

III.

The Western Trunk Lines are in error in claiming that the divisions of the Eastern carriers are not involved in this proceeding, and that such carriers are not necessary parties.

It appears to be agreed that the junctions where the joint rates are divided, as between the Southwestern carriers and the Eastern carriers on the joint traffic to and from Eastern territory, is St. Louis, and that the agreement for the division of revenue from such joint rates is made between the Southwestern carriers and the Eastern carriers. It also appears to be agreed that the same divisions apply to the Mississippi River crossings north of St. Louis. It is true, as the Western Trunk Lines state, that the Western Trunk Lines perform a service of transporting shipments west of this Mississippi River crossing; for example, Hannibal, Quincy, Davenport, Savanna and Dubuque. And it is also true that the Western Trunk Lines transport these shipments for the Central Freight Association carriers across the State of Illinois to and from these upper Mississippi River crossings.

Counsel for the Western Trunk Lines erroneously states that only the service from these Mississippi River crossings westward is involved. Under the express terms of the Commission's order, the assumed rate which is to be used in determining the Western Trunk Lines' proportion of the revenue from the joint rates is the entire haul of the Western Trunk Lines in Western Trunk Line territory; and this includes the entire State of Illinois, which is east of these Mississippi River crossings. For illustration, the Southwestern scale controls the Western Trunk Lines' revenue between the Kansas City gateway and their connections with the Eastern carriers. This, of course, includes the transportation performed by the Western Trunk Lines east of the Mississippi River.

Leaving out of view, for the moment, the service performed by the Western Trunk Lines west of the Mississippi River, it is clear that the Commission's order increases the divisions of the Western Trunk Lines east of the river, including, as above stated, the State of Illinois. The Southwestern scale is to control these divisions east of the river, as well as those west of it.

But the compensation which the Western Trunk Lines have been receiving for their service east of the Mississippi River was fixed by contract between the Western Trunk Lines and the Eastern carriers. The Eastern carriers received the entire divisions for the transportation east of the Mississippi River, and they made an agreed allowance to the Western Trunk Lines for their transportation service between the Mississippi River and connections with their lines in Chicago and other points in Illinois. This contract between the Eastern carriers and the Western Trunk Lines is now annulled and set aside by the Commis-

sion's order. The Commission's order says, in substance, to the Eastern carriers:

> You have not been paying the Western Trunk Lines sufficient compensation for their services. We have increased this compensation, and your share of the divisions east of the Mississippi River is correspondingly reduced.

Manifestly, the Commission's order operates to reduce the divisions of the Eastern carriers, and this without making them, or any of them, parties to the proceeding, or the taking of any evidence whatsoever with respect to their financial and operating conditions in the light of the requirements of the statute.

This circumstance gives a pointed illustration to the argument advanced in our original brief that the divisions of the Southwestern carriers could not lawfully be reduced for the purpose of granting relief to the Western Trunk Line carriers, without, at the same time, giving consideration to the divisions of the same through rates which were being received by the Eastern carriers and to their financial and operating conditions, in the light of the requirements of Section 15 (6). We argued that the divisions of the Eastern carriers may have been unreasonably large, when tested by the requirements of the statute, in which event the Eastern carriers should be required to contribute to the burden of affording relief to the Western Trunk Lines, instead of placing it all on the Southwestern carriers. The Commission did, in fact, find that the Eastern carriers' divisions were too large on traffic east of the Mississippi River; but this was without hearing or evidence or finding with respect to the Eastern carriers, and without their being parties to the proceeding.

When we consider the very wide discretion vested by the statute in the Commission in determining divisions of joint rates, and that mere justice as between the interested carriers is not controlling, but that the public interest as well must be considered, it necessarily follows that the divisions of one carrier, party to a joint rate, cannot be determined without a consideration of the financial and operating conditions of the other parties to the joint rate in the manner prescribed by statute. The joint rate is an entirety. The divisions are to be determined, not by any hard and fast rule, but in the Commission's discretion, which must extend to all parties to this joint rate. The divisions are inter-dependent. The division of one carrier depends to some extent upon the divisions received by the other parties to the joint rate.

This does not necessarily mean that the divisions of each and every carrier, party to a joint rate, must be fixed and determined, separately, in one proceeding. Where there are three carriers, A, B and C, parties to the joint rate, no doubt the divisions to which carrier A is entitled may be determined without, at the same time and in the same proceeding, fixing the separate divisions of B and C. In thus determining the divisions of carrier A, the problem may be divided into two parts; first, what division is carrier A entitled to; secondly, what division is just, reasonable and equitable to be received by B and C, in the aggregate. The shares to which B and C are separately entitled may be determined in a subsequent proceeding. This was the theory of the *Orient* case and the *New England Divisions* case. But the determination of the divisions of carriers B and C, in the aggregate, manifestly requires a consideration of the divisions which they both

receive, and likewise a consideration of the financial and operating conditions of both of them, in the light of the requirements of the statute. It is clear that the division of carrier A cannot be determined without at the same time giving consideration to the remainder of the joint rate, and to the divisions, in the aggregate, of the carriers entitled thereto. By the same token, the divisions of carrier A and carrier B cannot be determined, under the statute, without giving consideration to the divisions of carrier C and applying the statutory tests. The plain reason is that the divisions of the three companies are interdependent, and the Commission cannot justly fix the divisions of any one or two of them without taking the other or others into consideration. Carrier C's divisions may be found to be too high or too low, when the Commission applies the statutory tests; and, in either event, that would inevitably affect the determination of the divisions of carriers A and B.

We contend, therefore, that the Commission could not lawfully consider and fix the divisions of the Southwestern carriers and the Western Trunk Line carriers without at the same time taking into consideration the divisions of the Eastern carriers, and their financial and operating conditions, in the light of the requirements of the statute. As the Commission in fact undertook to determine the divisions of the Southwestern Lines and the Western Trunk Lines on traffic where the latter acts only as a bridge carrier, and gave no consideration whatever to the Eastern carriers, and refrained from applying to them the statutory tests of Section 15 (6), its action in that behalf cannot be sustained, and its order is invalid.

IV.

The failure of the Commission to prescribe divisions for the Southwestern carriers which would yield them an average of from 17 to 20 per cent. greater average revenue per ton mile on interchanged traffic, than the average ton mile revenue of the Western Trunk Line carriers, and in prescribing divisions which yield only 9 per cent. greater average revenue per ton mile, was due to the Commission's error in failing to take into consideration the longer hauls of the Southwestern carriers and the lower average revenue per ton mile under the Southwestern scale, resulting therefrom.

Some confusion has resulted from the use of the term "cost of service". This occurs in the briefs of counsel, as well as in the opinion of the lower court, and, to some extent, in the reports of the Commission. In the Commission's reports, cost of service is sometimes used in the sense of operating expenses; but "cost of service, including a fair return on investment" is used to indicate an average revenue per ton mile sufficient to cover "operating expenses, taxes, and a fair return".

At page 473 of the Commission's report (R. 78), cost of service is used as the equivalent of operating expenses. It is there said:

> The table below shows the average freight operating expenses per ton mile in 1924 of Class I carriers operating within the two groups.

After setting out the table, the Commission continues:

> These figures indicate that it costs somewhere in the neighborhood of 15 per cent. more per ton mile

to haul freight in the Southwest than in Western Trunk Line territory.

Here it is obvious that operating expenses are meant.

At page 477 (R. 86), the Commission uses the expression "the cost of operation per ton mile, including all expenses, charges and a fair return on investment". This does not mean cost of operation or cost of service in the ordinary sense. A fair return on the investment is neither operating expense nor is it cost of service. An amount of operating revenue sufficient to cover all operating expenses and a fair return on the investment is revenue, pure and simple. It is a misnomer to speak of it as cost of service or as operating expenses.

But at page 475 (R. 82), the Commission sets out a table which shows the constructive average revenue per ton mile, in mills, necessary to be realized by the Western Trunk Lines to earn their operating expenses, taxes, and a return of 5.75 per cent. upon their investments; and the same for the Southwestern Lines. This constructive average revenue per ton mile, in mills, is 12.08 for the Western Trunk Lines and 14.67 for the Southwestern Lines, including in both groups the Santa Fe and Rock Island; or 11.61 for the Western Trunk Lines and 14.88 for the Southwestern Lines, excluding the above carriers from both groups. In making this table, the Commission obviously had in mind its duty under Section 15a of the Interstate Commerce Act to make rates which, after payment of operating expenses, would yield a return of 5.75 per cent. in net railway operating revenue upon the group values. It ascertained the average revenue per ton mile for each group to bring about this result. It found that a greater amount of average revenue per ton mile was necessary to

give to the Southwestern carriers their statutory rights than to give the same rights to the Western Trunk Lines; and that this amount varied from 17 to 20 per cent. The Commission said (R. 83):

> The effect of these figures is to indicate that the cost of service, including a fair return on investment, was somewhere in the neighborhood of 20 per cent. greater in the Southwest than in the Western Trunk Line group, based on averages of 1923 and 1924 operations, and somewhere in the neighborhood of 17 per cent. greater based on 1924 operations.

The expression "cost of service, including a fair return on investment", is obviously not cost of service in the ordinary sense. The Commission was dealing with average revenue per ton mile sufficient to cover operating expenses and a fair return on the investment.

It is clear that the Commission intended to say that in order to comply with Section 15a of the statute and give to the Southwestern carriers their operating expenses and a net return of 5.75 per cent. upon their investment, it was necessary that they should realize an average revenue per ton mile from 17 to 20 per cent. higher than would achieve the same result on the Western Trunk Lines. Perhaps a better expression for what the Commission had in mind would have been "the statutory average revenue per ton mile".

It appeared that the Southwestern carriers were entitled to this higher average revenue per ton mile for reasons which appeared, without dispute, in the Commission's report. The Western Trunk Lines had a 50 per cent. higher density of traffic, which operated greatly to their advantage. The Southwestern carriers had more difficult oper-

ating conditions, reflected in the fact, as above set forth, that it cost somewhere in the neighborhood of 15 per cent. more per ton mile to haul freight in the Southwest than in Western Trunk Line territory.

When the Commission reached the conclusion that the statutory average revenue per ton mile of the Southwestern carriers was from 17 to 20 per cent. greater than that required in the case of the Western Trunk Lines, it attempted to put that decision into execution. This is evidenced not only by the fact that in its opinion it stated that the Southwestern carriers needed greater revenue in that amount, but by its statement (p. 479, R. 88) that, in basing the Southwestern carriers' divisions on 100 per cent. of the Southwestern scale, and the Western Trunk Lines' divisions on 80 per cent. and 87 per cent. of the same scale, it was giving to the Southwestern carriers an advantage of 25 per cent. as to certain traffic and 15 per cent. as to other traffic. It there said:

> It should be borne in mind that under the 80 per cent. basis the assumed rates used south of the gateways are 25 per cent. greater relatively than those used north thereof, and that under the 87 per cent. basis they are 15 per cent. greater.

Again, in the Commission's second opinion, it is said (R. 104):

> The actual figure which we used in arriving at our divisional basis was about 22.5 per cent., for we used 25 per cent. excess for the Southwest on the traffic to and from Illinois and Wisconsin points and 15 per cent. for the remainder of the traffic to and from Western Trunk Line points.

It is fairly plain, therefore, that the Commission, in prescribing divisions in this case, intended to give effect to its finding that the Southwestern carriers were entitled to a higher average revenue per ton mile, on the interchange traffic in question, ranging from 15 to 25 per cent. Its subsequent modification of the Western Trunk Lines' percentage of the Southwestern scale from 80 per cent. to 75 per cent., when applying via the St. Louis gateway, was made in its second opinion. While nothing was said by the Commission as to the effect of the use of 75 per cent., it is a fair inference that, on the traffic to which it applied, it intended that the higher average revenue per ton per mile of the Southwestern Lines on that traffic would be approximately 33⅓ per cent.

But it is equally clear that the Commission's plan miscarried. The actual yield to the Southwestern carriers under the prescribed divisions fell far short of from 17 to 20 per cent.; far short of 15 to 25 per cent., and far short of 22.5 per cent. or 33⅓ per cent. The amount actually realized by the Southwestern Lines, as is clearly shown by the test made in September, 1928, gave them but 9 per cent. more average revenue per ton mile on interchanged traffic than was realized by the Western Trunk Lines.

There is an obvious explanation for this failure of the Commission to realize the effect which its reports indicate it actually intended. That explanation lies in the fact that the hauls of the Southwestern carriers were much longer than the Commission realized, and that, by reason of this length of haul and the diminishing average revenue per ton mile under the Southwestern scale, the revenue realized by the Southwestern Lines fell far short of what the formula was expected to produce.

The Commission assumed that the hauls of the Western Trunk Lines group and the Southwestern group were substantially the same. At page 469 (R. 72) it said:

> It is safe to conclude there were no great differences in average hauls.

This was based on group data and referred to the average hauls between the Western Trunk Lines group and the Southwestern group. Again, in its second report, the Commission said (R. 104):

> Average hauls differ very little.

This latter statement was also based upon system figures, and not upon the interchange traffic in question.

But it has now developed that the hauls differ very materially. The Commission correctly states in its brief (p. 30) that the average haul on the interchange traffic in question was 313.7 miles for the Western Trunk Lines and 471.9 miles for the Southwestern Lines. The average haul of the Southwestern Lines was, therefore, a little more than 50 per cent. greater than the average haul of the Western Trunk Lines. This is disclosed in the test of September, 1928. Data contained in the first report (461-462, R. 63) indicate a considerable difference in the length of haul.

If the Commission had been right in its assumption that the average hauls were substantially the same, it is quite possible that its formula would have worked out as it evidently intended, and would have given to the Southwestern carriers from 15 to 25 per cent. more average revenue per ton mile than for the Western Trunk Lines. This, we think, may be demonstrated with almost mathematical accuracy, and to do so we first go to the Southwestern scale,

which will be found in 123 I. C. C. 477. This is the scale with reference to which the revenues between the two groups of carriers are to be divided under the Commission's formula.

It is interesting to note that under this scale the revenue per ton mile, obtained by computing the cost of one ton for the prescribed number of miles and dividing that sum by the mileage, decreases rapidly as the distance increases. We give the following illustrations:

Number of Miles	*Rate Cents per Cwt.*	*Revenue per Ton Mile in Mills*
50	58	232.0
100	79	158.0
150	97	129.3
200	109	109.0
300	133	80.8
400	157	78.85
460	167	72.6
500	174	69.6
600	192	64.0
700	209	59.7

It will be noted that the revenue per ton mile in mills is much greater than the statutory average revenue per ton mile, above referred to. This is due to the fact that the rates prescribed in the Southwestern scale, which are used by the Commission in its formula for the division of joint rates, are the first-class rates, which are much higher than commodity and other class rates and, of course, much higher than the joint rates under which the interchange traffic in question was moved. The actual yield of revenue per ton mile in mills under this Southwestern scale is of no importance, since no revenue was received under it. Its

only function was to furnish the measure for the division of the joint rates. The only significance in the foregoing statement showing the revenue per ton mile in mills is to indicate graphically that, under the Southwestern scale, as the haul increases, the average yield per ton mile decreases in a rapidly increasing ratio.

If we take typical shipments, where the haul of the Western Trunk Lines is the same as the haul of the Southwestern Lines, we find that the revenue of the Southwestern Lines exceeds that of the Western Trunk Lines by from 15 to 25 per cent., or even 33⅓ per cent., depending on the factor—that is, 87 per cent., 80 per cent., or 75 per cent.—to be used in determining the share of the Western Trunk Lines. For illustration, we assume a carload of merchandise weighing 25 tons moves from a point 300 miles north of Kansas City to a point 300 miles south of Kansas City on a joint rate, and that the total earnings for the movement amount to $260.00. We take 25 tons to the car and $260 as the earnings on the car, for the reason that this was the average tonnage and average revenue per car of all the movements shown in the test of September, 1928 (R. 1226). If we assume a different tonnage or a different earning per car, the resulting average revenue per ton mile may vary; but the relation between the average revenue per ton mile of the Western Trunk Lines and the average revenue per ton mile of the Southwestern Lines will remain constant.

The rate under the Southwestern scale for 300 miles is $1.33 per cwt. The revenue ($260.00), therefore, is to be divided in the ratio of $106.40 (80% of $133.00) to the Western Trunk Lines and $133.00 to the Southwestern Lines—that is, the Western Trunk Lines are to get 106.40/239.40 and the Southwestern Lines are to receive

133.00/239.40. The share of the Western Trunk Lines, thus computed, is $115.55, and the share of the Southwestern Lines is $144.45.

The ton miles north of St. Louis are 7,500; that is, the 25-ton load multiplied by 300 miles; and the ton miles south of St. Louis are the same. The earnings of the Southwestern Lines, therefore, ($144.45 divided by 7,500) were 19.26 mills per ton mile. The earnings of the Western Trunk Lines ($115.55 divided by 7,500) were 15.4 mills per ton mile. The earnings of the Southwestern Lines were 25 per cent. greater than the Western Trunk Lines.

Taking the same illustration as given above, the distances remaining the same, but using a factor of 87 for the Western Trunk Lines instead of 80, the revenue of the Western Trunk Lines will average 16.12 mills per ton per mile, and the revenue of the Southwestern Lines 18.53 mills per ton per mile. In other words, the Southwestern Lines receive 15 per cent. more revenue than the Western Trunk Lines.

Taking the same illustration as given above, the distance remaining the same, but using a factor of 75 for the Western Trunk Lines instead of 80 or 87, the revenue of the Western Trunk Lines would average 14.856 mills per ton per mile, and the revenue of the Southwestern Lines would average 19.80 mills per ton per mile. In other words, the Southwestern Lines receive 33⅓ per cent. more revenue than the Western Trunk Lines.

If the Commission had been correct in its assumption that the average hauls on interchange traffic of the Western Trunk Line carriers and the Southwestern carriers were substantially the same, it is quite likely that its formula would have worked out as it apparently intended; that is, to give the Southwestern Lines revenue in excess of that

realized by the Western Trunk Lines, amounting to 15 per cent. where the factor was 87; 25 per cent. where the factor was 80, and 33⅓ per cent. where the factor was 75.

It is evident that the movements of interchange freight, where the revenue is divided directly in accordance with the Southwestern scale, will, for the same distances, give the same average revenue per ton mile. It is also evident that where, on one side of the equation 100 per cent. of the Southwestern scale is used, and, on the other side, less than 100 per cent., the results will reflect the difference in percentages, provided only the distances are the same. The above illustrations demonstrate this to be true. They might be multiplied indefinitely.

But where the haul of the Southwestern Lines is greater than the haul of the Western Trunk Lines, an entirely different situation is presented. As the haul of the Southwestern carriers increases beyond the haul of the Western Trunk Lines, the average revenue per ton mile realized by the Southwestern carriers is reduced; not merely for the additional distance, but for the entire distance. This is true, because as the distance increases, the average revenue per ton mile decreases rapidly. In order to make the principle entirely clear, we take what may be regarded as an extreme case, and assume movements under the applicable factors, where the haul of the Western Trunk Lines remains at 300 miles, but the haul of the Southwestern Lines is 600 miles. It will be seen that the application of the Commission's formula in such movements will result in the Western Trunk Lines receiving a greater average revenue per ton mile than that realized by the Southwestern Lines, whereas the reverse of this is what the Commission evidently intended.

We assume a shipment of the same car, containing 25 tons, from a point 300 miles north of Kansas City to a point 600 miles south thereof, and that the total revenue from the shipment was likewise $260.00. This will divide under the Commission's formula, as $106.40 (80% of $133.00) is to $192.00 (which is the Southwestern scale for 600 miles). The Western Trunk Lines' share of the revenue, therefore, is $92.70, and the Southwestern Lines' share is $167.30. Dividing $92.70 by 7500 ton miles, the result is 12.36 mills, which is the revenue per ton mile realized by the Western Trunk Lines. Dividing $167.30 by 15,000 ton miles of the Southwestern Lines, the result is 11.15 mills. Had the Commission's formula operated to give to the Southwestern Lines 25% more revenue, their ton mile earnings would have been 15.45 mills, instead of 11.15. But the Western Trunk Lines realize 10.8% more revenue than the Southwestern Lines.

If a factor of 87 for the Western Trunk Lines in the above illustration is used, instead of 80, the distances remaining 300 and 600 miles, respectively, the Western Trunk Lines would receive a revenue per ton mile of 13 mills, and the Southwestern Lines would receive a revenue per ton mile of 10.8 mills. In order to give the Southwestern Lines 15 per cent. more revenue than the Western Trunk Lines, they should have received 14.95 mills, instead of 10.8. In fact, the Western Trunk Lines actually received 20 per cent. more revenue than the Southwestern Lines.

If a factor of 75 for the Western Trunk Lines in the above illustration is used, instead of 80 or 87, the distances remaining 300 and 600 miles, respectively, the Western Trunk Lines would receive a revenue per ton mile of 11.85 mills, and the Southwestern Lines would receive a revenue per ton mile of 11.40 mills. In order to give the South-

western Lines 33⅓ per cent. more revenue per ton mile than the Western Trunk Lines, they should receive 15.80 mills per ton mile, instead of 11.40 mills. In the illustration given, the revenue of the Western Trunk Lines exceeded the revenue of the Southwestern Lines by 4 per cent.

It having been shown that where the respective hauls of the Western Trunk Lines and Southwestern Lines were equal, the Southwestern Lines realized the advantage over the Western Trunk Lines which the Commission evidently intended; and it having also been shown that where the average hauls of the Southwestern Lines is double that of the Western Trunk Lines, the advantage which the Commission evidently intended to give to the Southwestern Lines not only disappears, but that an actual advantage is enjoyed by the Western Trunk Lines over the Southwestern Lines—the exact reverse of what the Commission evidently intended; it remains now to consider the effect upon the average revenue per ton mile of the Southwestern Lines and Western Trunk Lines, respectively, when effect is given to the fact that the average haul of the Southwestern Lines is 471.9 miles and of the Western Trunk Lines 313.7. For convenience in computation, we assume the average haul of the Western Trunk Lines to be 300 miles and that of the Southwestern Lines, 460.

We assume a shipment of the same carload, containing 25 tons, from a point 300 miles north of Kansas City to a point 460 miles south thereof, and that the total revenue from the shipment was $260.00. This will divide, under the Commission's formula, as $106.40 (80% of $133.00) is to $167.00 (which is the Southwestern scale for 460 miles). The Western Trunk Lines' share of the revenue, therefore, is $101.18; and the Southwestern Lines' share is $158.82.

Dividing $101.18 by 7,500 ton miles, the result is 13.49 mills per ton mile, which is the revenue realized by the Western Trunk Lines. Dividing $158.82 by 11,500 ton miles of the Southwestern Lines (25 tons multiplied by 460 miles), the result is 13.80 mills. Had the Commission's formula operated to give the Southwestern Lines 25% more revenue than the Western Trunk Lines, their ton mile earning would have been 16.86 mills, instead of 13.80. Similar results will be obtained by using the factors 87 and 75.

The average revenue per ton mile actually received by the Southwestern Lines exceeded that of the Western Trunk Lines by only 9 per cent., instead of from 17 to 20 per cent., as the Commission intended. It is entirely clear that this miscarriage was caused by the Commission's error in assuming that the hauls were the same.

Although there was before the lower court what we regarded as conclusive proof of the miscarriage of the Commission's formula, it declined to recognize that fact, and approved what the Commission had done. The action of the lower court, we believe, was based upon a confusion of terms and a misapprehension of what the Commission had done, what it endeavored to do, and the failure of its efforts. The lower court said (p. 794, R. 1323):

> Counsel contend that the Commission found that, "The Southwestern respondents are entitled to an average of 17 to 20 per cent. greater revenue per ton mile of freight transported than are the Western Trunk Line respondents." This is not warranted by the actual finding of the Commission, which is that, "Cost of service, including a fair return on investment, was somewhere in the neighborhood of 20 per cent. greater in the southwest than in the Western Trunk line group, based on averages of 1923-1924

operations, and somewhere in the neighborhood of 17 per cent. greater based on 1924 operations."

Cost of service is not analogous to revenue per ton mile. Revenue per ton mile varies of necessity with the length of haul, and the cost of service is made up of the cost of terminal operations, which is substantially the same, regardless of the length of haul and the cost of line haul, which varies materially with the length of haul. The combination of these factors produces the cost per ton mile, which varies with the length of haul, but not in direct ratio.

We respectfully contend that it is perfectly clear that the lower court confused "cost of service", which is nothing more or less than operating expenses, with the average revenue per ton per mile to which the Commission said the Southwestern Lines were fairly entitled in order to be on a parity with the Western Trunk Lines. Operating expenses, whether called "cost of service" or by any other name, are disbursements made by a carrier to pay the cost of operating and maintaining its property. The average operating revenue per ton per mile is the amount of revenue which shippers pay to a carrier per transportation unit —the ton mile—for the transportation service performed. The aggregate of the revenue thus paid by the public to a carrier is measured by the number of transportation units —that is, the number of tons per mile—multiplied by the average revenue per ton mile. The amount of revenue thus paid by the public includes operating expenses, and also provides a return on investment; and return on investment is net railway operating income. This is essentially different from operating expense and from cost of service. It is the profit earned by the enterprise.

The court continues (p. 794, R. 1324):

> It is, however, observed that the average length of haul of the southwestern lines, as reflected by this test, was a little more than 50 per cent. greater than the average length of haul of the western lines. If we may assume the same cost of service in both territories, still the cost per ton mile on traffic for the southwestern lines would be materially less than the corresponding cost for the western trunk lines, for the reason that there is a longer average haul in the southwestern territory. Divisions based on cost of service would therefore yield the southwestern lines the same revenue per ton mile for the longer hauls as the western trunk lines received for their shorter hauls, and hence divisions which would yield the southwestern lines on this traffic 9 per cent. more revenue *per ton mile* than the western trunk lines, the result claimed under the test would reflect a cost of service in the southwest higher than that in the western trunk line territory by much more than 9 per cent.
>
> It seems clear that a formula using the cost per ton mile would, under the circumstances, produce a result unfair to the western trunk lines because of the shorter average haul on these lines.

Here, again, it is entirely clear that the court is confusing cost of service with revenue. This is evidently due, as above stated, to the fact that the Commission uses the expression, "cost of service, including a fair return on investment". This so-called cost of service, as the entire expression plainly indicates, however, is not an operating expense, but a measure of revenue.

When we take the real meaning which the Commission had in mind in using that expression, and compare it with the Commission's statement of the amount of average reve-

nue per ton mile which the Southwestern Lines were entitled to receive, over and above that received by the Western Trunk Lines, it is fairly obvious that the Commission intended by its formula to give to the Southwestern Lines the advantage which its findings indicate they should receive, and that the Commission's purpose failed of achievement because of its assumption that the hauls were the same. Discussion of "cost of service" as indulged by the lower court, and as adopted by counsel in their briefs, is quite beside the case.

Furthermore, the district court also entirely overlooked the fact that the Commission has made no investigation and had no evidence before it showing the cost of operation on account of the traffic moving under these joint rates, nor that the operating costs on account of such traffic decreased with the increasing length of haul; and if so, in what ratio.

V.

Cross appeal of United States and Interstate Commerce Commission.

The granting of an order staying the enforcement of the orders of the Interstate Commerce Commission, pending the appeal, was a matter within the discretion of the district court, and, under the circumstances, was a proper exercise of its discretion.

In this case no temporary injunction in the district court was necessary, for the reason that the Commission postponed the effective date of its order during the pendency of the suit before the district court. The last postponement was until December 1, 1929.

When the appellants filed their petition for appeal on November 27, 1929, they also filed a petition for an order staying the enforcement of the order of the Interstate Commerce Commission until this case should be determined in this Court (R. 133). The three Judges granted the appeal, and also granted a stay order as to the appellants, upon condition that the appellants should file a bond in the sum of $3,000,000.00, which was done (R. 136-138). The reasons stated by the court for granting the stay order were (a) that novel and important questions concerning which there is serious doubt were presented; (b) that on account of the financial condition of some of the respondent railroad companies in Western Trunk Line territory which are in receiverships, petitioners would be in danger of not being able to recover any increased divisions which they might pay to the said Western Trunk Line respondents in the event that the decree of the district court should be reversed on appeal; (c) that irreparable damage might result if the Commission's order is not stayed pending appeal; (d) on account of the effect on the net revenues of the petitioners, and the fact that the said orders of the Interstate Commerce Commission do not apply to all the joint rates between Western Trunk Line and Southwestern territory, which would necessarily cause confusion and necessitate a large amount of labor and expense which should not be incurred unless the validity of the said orders should be upheld on appeal; (e) that the said order had not yet gone into effect, and the *status quo* should be preserved pending appeal; (f) that the public would not suffer in any manner by reason of said stay; and (g) that the rights and interests of the said respondent railway companies in Western Trunk Line territory could be fully and

adequately protected by the execution by appellants of a good and sufficient bond.

The Western Trunk Line respondents later filed a motion in the district court, asking that the said stay order be vacated (R. 1299); but the district court, after hearing and considering the evidence introduced and the arguments of counsel, overruled the motion and continued the stay order in effect (R. 1299-1311).

This Court, in *Virginian R. Co.* v. *United States*, 272 U. S. 658, 671, states that the granting of such a stay should be passed upon by the district court. The court said:

> • • • because such court is "best and most conveniently able to exercise the nice discretion needed • • • the court of three judges, who have heard the whole matter, have read the record, and can pass on the issue (application for a suspension pending the appeal) without additional labor", the determination of the application will ordinarily be left to it.

The reasons justifying the granting of such a stay order are outlined in the *Virginian* case, as follows (p. 673):

(a) That the district court entertains a serious doubt as to the correctness of its own decision;

(b) That some other special reason exists why the order of the Commission ought not to become operative until its validity can be considered by this Court;

(c) (p. 674) That the case involves the determination of a question of law which is novel or as to which there may be reasonable doubt.

We have the authority both of the district court and of the Commission that the case involves novel and impor-

tant questions. The district court, as already set forth, stated as the first reason for granting the stay order that "novel and important questions concerning which there is serious doubt are presented by the assignment of errors filed herein which should be reviewed by the Supreme Court of the United States". The Commission, in its report on reconsideration (R. 94), said:

> The issues are so important, however, and they raise so many relatively new and difficult questions that we shall depart from our usual practice and explain in this report not only the reasons for the modifications, but also why rehearing and reargument have been denied.

We are confident that this Court, after considering the briefs and arguments in this case, will also be of opinion that novel and important questions are presented, and that there is serious doubt concerning the correctness of the decision of the Interstate Commerce Commission and the district court.

There were other special reasons warranting the granting of the stay order. It was set forth at length before the district court that the order of the Commission applies only to divisions of revenue from traffic that originates on the line of a Southwestern respondent and terminates on the line of a Western Trunk Line respondent, or vice-versa, and to traffic that originates or terminates at a point on the line of a Southwestern respondent and passes over the line of a Western Trunk Line respondent in the course of transportation to or from certain Eastern territory. As stated on page 5 of our original brief, of the 44 Class I carriers whose railroads are located wholly or partly in Western Trunk Line territory, only 15 were made parties;

and of the 37 Class I carriers in Southwestern territory, only 26 were made parties. None of the Class II or Class III carriers in either territory, of which there are a large number (R. 1237-1244), were made parties. Consequently, the Commission's order as to divisions does not apply to traffic originating or terminating at any point on the lines of the latter. The result, if the Commission's order had gone into effect, would have been that the carriers would have been compelled to make the necessary computations and apply the new basis of divisions to the joint rates on the traffic affected by the order, as above described, and to continue to apply the old basis of divisions as to the remainder of the traffic, which constituted about one-third of the total traffic between Western Trunk Line and Southwestern territory (Petitioners' Exhibit 10, R. 1226). Obviously, it would entail a great deal of labor and expense to put the new basis into effect, and a great deal of confusion, since the old basis of division was to be continued as to much of the traffic; and if the Commission's order should finally be held to be invalid, it would entail a large amount of additional labor and expense in restoring the old divisions.

Other special reasons were that if the increased divisions were paid to some of the Western Trunk Line respondents, it might be impossible to recover those amounts, if the Commission's order was finally held to be invalid; and that this order did not affect rates in which the public was directly interested, but only the divisions. In other words, the interested carriers were fully protected by the bond which was furnished, and the public was also protected by that bond, since its only interest in this case was in preserving the efficiency and financial well-being of the carriers.

This was not a case of emergency. The Interstate Commerce Commission entered upon this proceeding on August 26, 1925 (R. 1173). The taking of testimony was concluded on June 29, 1926 (R. 1103-1169). The case was argued on January 13, 1928, and decided December 10, 1928; and the report on reconsideration was handed down on June 10, 1929 (R. 93). Evidently, there was no emergency which would make it improper to continue the *status quo* pending the appeal to this Court, since the Commission consumed about two years and a half from the time the taking of testimony was closed until it handed down its original report.

We submit that, under the principles laid down in the *Virginian* case, *supra,* the district court had the right in its discretion to grant the stay order.

Previous decisions of this Court also justified the granting of the stay, under the circumstances set forth above.

In *Cotting* v. *Kansas City Stock Yards Co.,* 82 Fed. 850, 857, the court, although dismissing the bill for injunction, at the same time entered an order continuing in force the preliminary injunction for ten days pending the taking of an appeal, and provided further that such injunction would be continued in force until the appeal was heard and determined by the Supreme Court of the United States, if good and sufficient bond were provided. In this case, the court said:

> The great importance of the questions involved in these cases will doubtless occasion an appeal to the Supreme Court of the United Stataes, where they will be finally settled and determined. If, on such appeal, the Kansas statute complained of should be adjudged invalid for any reason, and in the meantime the statutory schedule of rates should be enforced, the stockyards company would sustain a

> great and irreparable loss. Under such circumstances, as was said, in substance, by the Supreme Court in Hovey *v.* McDonald, 109 U. S. 150, 161, it is the right and duty of the trial court to maintain, if possible, the *status quo* pending an appeal, if the questions at issue are involved in doubt; and equity rule 93 was enacted in recognition of that right. The court is of opinion that the cases at bar are of such moment, and the question at issue so balanced with doubt, as to justify and require an exercise of the power in question.

This procedure appears to have had the approval of this Court on appeal (183 U. S. 79, 80).

See also:

> *Hovey* v. *McDonald,* 109 U. S. 180, 151, 162;
> *Omaha & Council Bluffs Street Ry. Co.* v. *Interstate Commerce Commission,* 222 U. S. 582, 582;
> *Louisville & N. R. Co.* v. *United States,* 227 Fed. 273.

Appellees complain that no notice was given to them that application for a stay would be presented, but there was not time for this, since the appeal was taken November 27, 1929, and the Commission's order, unless stayed, would go into effect on December 1, 1929. This was deemed to be an "extraordinary circumstance" (*Cumberland T. & T. Co.* v. *Louisiana Pub. Ser. Co.,* 260 U. S. 212, 218), excusing the giving of such notice. And, as stated above, the

appellees were later given a hearing upon their motion to vacate the stay order.

Respectfully submitted,

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October 18, 1930.

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CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1930.

No. 44

THE BEAUMONT, SOUR LAKE & WESTERN RAILWAY COMPANY, ET AL.,

Appellants,

vs.

THE UNITED STATES OF AMERICA, ET AL.,

Appellees.

BRIEF ON BEHALF OF THE CHICAGO AND ALTON RAILROAD COMPANY, WILLIAM W. WHEELOCK AND WILLIAM G. BIERD, RECEIVERS, CHICAGO & NORTH WESTERN RAILWAY COMPANY, CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY, CHICAGO GREAT WESTERN RAILROAD COMPANY, CHICAGO, ST. PAUL, MINNEAPOLIS & OMAHA RAILWAY COMPANY, ILLINOIS CENTRAL RAILROAD COMPANY, MINNEAPOLIS & ST. LOUIS RAILROAD COMPANY, W. H. BREMNER, RECEIVER, MINNEAPOLIS, ST. PAUL AND SAULT STE. MARIE RAILWAY COMPANY, CHICAGO AND EASTERN ILLINOIS RAILWAY COMPANY AND WABASH RAILWAY COMPANY, APPELLEES.

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THE UNITED STATES OF AMERICA, ET AL.,

Appellees.

BRIEF ON BEHALF OF THE CHICAGO AND ALTON RAILROAD COMPANY, ET AL., APPELLEES.

STATEMENT.

MAY IT PLEASE THE COURT:

The first report of the Commission with respect to the subject matter of this suit, issued December 10, 1928, is reported at 148 I. C. C. 457, and is printed in full at pages 55 *et seq.* of the record. The second report, issued June 10, 1929, and reported at 156 I. C. C. 94, is printed in full at pages 93 *et seq.* of the record. The first order of the Commission, dated June 10, 1929, is printed in full at pages 109 *et seq.* of the record, and its second order, dated July 25, 1929, at pages 113 *et seq.* of the rec-

ord. The second order amended the second paragraph of the first order by eliminating the Texarkana & Fort Smith Railway Company as a respondent and by extending the effective date of the order from August 1, 1929, to October 1, 1929. The report of the decision in the District Court is at 36 Fed. (2d), pages 789 *et seq.* and is printed in full in the record at pages 1318 *et seq.*

The carriers on whose behalf this brief is filed were designated as Western Trunk lines and complainants in the reports of the Commission. They were respondents in the proceedings before the Commission (R. 114) and intervened as defendants in the lower court (R. 11). The statement of the proceedings before the Commission, appearing at pages 2 *et seq.* of appellants' brief is not complete, creates many false inferences and is incorrect in some respects.

The proceeding before the Commission was initiated by the Commission on its own motion by order dated October 8, 1923 (R. 1169-1170), for the purpose of determining the proper divisions of rates applying on traffic between Southwestern and Western Trunk line territories. The territories and traffic involved were further defined by order dated September 8, 1925 (pp. 3-4, appellants' brief). Twelve of the railroads named by the Commission as respondents are known as Western Trunk lines (R. 57, 58, 114) and, with the exception of the Chicago, Milwaukee, St. Paul & Pacific, are represented on this brief. Thirty-two respondents named by the Commission have their major interests in Southwestern territory and are known as Southwestern lines (R. 58, 114). Of these thirty-two Southwestern lines, only twenty-four are appellants herein, the others not having joined in this litigation.

It is inferred by appellants that in the proceedings

before the Commission, there was some insufficiency with respect to parties, but this is not so. In its first report, the Commission said (R. 57-58):

> "Complainants are principally the important lines in Western Trunk line territory that have little or no trackage in the Southwest, and defendants are principally the important lines in the Southwest that have little or no trackage in Western Trunk line territory."

Exhibit "A," attached to appellants' brief (pp. 101 *et seq.*) lists all carriers operating mileage in the two territories, but none of the Class I roads named as operating mileage in Western Trunk line territory, other than those named as respondents, have any interest whatsoever in this proceeding, or, if they have an interest, it is exceedingly slight. As a matter of fact, Petitioner's Exhibit 24, offered on the hearing in the trial court (R. 1293), shows that thirteen of them are Central Freight Association railroads, and are not Western Trunk lines at all (R. 1292).

The only other Western Trunk line Class I carriers listed in Exhibit "A" to appellants' brief are the Canadian National Railways, which is a Canadian line, the Duluth, South Shore & Atlantic and Lake Superior & Ishpeming, which are shown upon the record to be ore-carrying lines located in northern Wisconsin and Minnesota (R. 905-906), the Elgin, Joliet & Eastern, shown on the record to be a belt line around the City of Chicago (R. 906, 907), the Great Northern and Northern Pacific, which operate lines westwardly from St. Paul and Minneapolis to the Pacific coast, the Louisville & Nashville, Mobile & Ohio, and Southern, operating lines southeasterly from St. Louis, the Union Pacific, operating a line westwardly from Council Bluffs, Iowa, to the Pacific coast, the St. Joseph & Grand Island, operating a line from St. Joseph, Missouri, to Grand Island, Nebraska, and the Duluth &

Iron Range, Duluth, Missabe & Northern and Green Bay & Western, operating lines in northern Wisconsin, Michigan and Minnesota (Exh. A-56, R. 1297).

Exhibit "A," attached to appellants' brief, also shows that only eleven Class I carriers in Southwestern territory were not named as respondents. Only those shorter and less important railroads which, in order to participate in the traffic involved, must do so as part of a joint line, are omitted. The fact of the matter, so far as parties is concerned, is that every Class I carrier in both Western Trunk line and Southwestern territories, serving Kansas City and St. Louis, Missouri, and East St. Louis, Cairo, Gale and Thebes, Illinois, the junctions at which the traffic here involved is interchanged between the Western Trunk line and Southwestern carriers (R. 109), was a respondent in the proceedings before the Commission. This means that every carrier actually dividing the revenue affected by the Commission's order is a party, and that is all that is necessary. Appellants do not allege any invalidity in the Commission's order because additional respondents were not named.

It is true, as stated at page 6 of appellant's brief, that the Louisiana Railway & Navigation Co. and the Texas & Fort Smith Railway Company were not named as respondents by the Commission. The Chicago & Eastern Illinois Railway Company and the Wabash Railway Company are, however, respondents. Petitioners' Exhibit 2 (R. 1169 *et seq.*) does not include the order or orders in which these two companies were named as respondents in the proceedings before the Commission, but this exhibit does not purport to contain all of the orders made by the Commission with respect to the proceedings before it. The orders of the Commission, dated June 10, 1929 (R. 110, 111) and July 25, 1929 (R. 114-115),

name both the Chicago & Eastern Illinois Railway Company and Wabash Railway Company as respondents participating in joint rates, the divisions of which are prescribed by the orders.

Hearings were had by the Commission at Chicago, Illinois, on October 14th and 15th, and on November 16th, 17th and 18th, 1925; at Galveston, Texas, on February 3rd to 11th, inclusive, 1926; at Chicago on May 6th and 7th, 1926, and at Washington on June 28th and 29th, 1926. Two thousand one hundred and twelve pages of evidence were taken and 289 exhibits were offered and received. All the testimony, in narrative form, and some of the exhibits, are contained in the printed record, and all the exhibits were certified to this Court separately, as original exhibits (R. 1297). The record before the Commission covered a wide range, and every conceivable fact relating to the traffic involved, the rates thereon, the division of those rates, and the operation of each respondent, was proven.

The proposed report of the Examiner of the Commission, and who heard the testimony, was that no change should be made in the divisions (R. 1184 *et seq.*). Thereafter, the case was argued orally before the Commission (R. 1248 *et seq.*) and on December 10, 1928, the Commission issued its first report (R. 55 *et seq.*), in which it condemned the divisions then in effect and allowed to respondents 60 days in which to agree upon an adjustment in substantial accord with its findings (R. 90). In this report the Western Trunk lines were designated as complainants and the Southwestern lines as defendants (R. 57).

The carriers found it impossible to amicably work out the adjustment of divisions recommended by the Commission, and the Southwestern lines filed a lengthy peti-

tion for rehearing (R. 94). This petition was denied, but the Commission reconsidered the case and, on June 10, 1929, issued a second report therein (R. 93), in which it dealt in detail with each ground for rehearing urged by the Southwestern lines in their petition. On the same date it issued its first order (R. 109 *et seq.*) which was modified on July 25, 1929 (R. 113), by the elimination of the Texarkana & Fort Smith Railway Company as a named respondent.

The divisional basis prescribed in the Commission's order of June 10, 1929, will increase the divisions of the Western Trunk lines on some traffic, and increase the divisions of the Southwestern lines on other traffic. On the whole, however, the order will operate to increase the revenue of the Western Trunk lines as a group. On appellants' showing, this increase will amount to approximately $2,900,000 per year (R. 1226).

This suit was started by appellants on July 22, 1929 (R. 1), before the Commission's order became effective, and was disposed of in the lower court on September 27, 1929, by the entry of an order dismissing the petition (R. 121). An order allowing appeal was entered on November 30, 1929 (R. 135), and on the same day an order was entered staying the order of the Commission until the appeal was determined (R. 136 *et seq.*). A stay bond of $3,000,000 was required and filed (R. 138). A cross-appeal from the order staying the order of the Commission, was also taken by the United States and the Commission (R. 139 *et seq.*).

As we have said, the record made before the Commission was complete in every respect, and the two reports made by the Commission are exhaustive. They deal with all the evidence, discuss every contention and fully disclose what the Commission did and why. Appellants are

inclined to complain that during the hearings, they had no specific demand of the Western Trunk lines before them, and there is a substantial quotation from the record purporting to show the situation that existed (pp. 6 *et seq.* appellants' brief). If this were so, it would not be at all remarkable. The proceeding before the Commission was instituted upon the Commission's own motion (Section 15(6) Interstate Commerce Act, 41 Stat. 456, 486), and there was no complaint by any party. It could scarcely be said, therefore, that there was any obligation upon the Western Trunk lines to make specific demands.

The order of the Commission, dated October 8, 1923, instituting the proceeding before it (R. 1169 *et seq.*) recites that the proceeding is instituted for the purpose of determining whether or not the divisions then in effect are, or for the future will be, unjust, unreasonable or otherwise unlawful, and for the purpose of prescribing proper divisions in the event that the existing ones are shown to be improper. Surely this was sufficient advice to the Southwestern lines of the issues they were called upon to meet. Certainly, there was no obligation on the Western Trunk lines to make any definite claim.

Moreover, as appears from the quotations from the record (R. 358), shown on page 8 of appellants' brief, the Southwestern lines had knowledge, early in the hearings, that the Western Trunk lines took the position that they were not getting sufficient money in the divisions of the Southwestern rates. While appellants devote considerable space in their statement to the point that they were not advised of specific issues, they do not attack the Commission's order on that ground.

It is true, as stated by appellants (p. 9, appellants' brief) that the report of the Commission dealt with the

divisions in the aggregate, but this is due to the fact, as stated by the Commission in its first report (R. 86), that—

> "The divisions here in issue are dealt with of record on a group basis. They are, in other words, the divisions 'in the aggregate' north and south of the gateways named, and no question is raised with respect to the divisions of individual carriers."

This statement is exactly correct, for upon the hearings before the Commission both the Western Trunk lines and the Southwestern lines dealt with the divisions on a group basis. The trial court referred to this circumstance in its opinion (R. 1326, 1327), and we will hereafter demonstrate that it was so.

On page 10 of their brief, appellants state that the Commission considered statistics of Class I carriers, other than respondents in the proceedings. This is not shown to be so in either report of the Commission, although such statistics were introduced by the Southwestern lines. For example, Exhibit A-124, offered by the Southwestern lines (R. 512) includes statistics for many Western Trunk lines and Southwestern lines which were not named as respondents by the Commission. Having voluntarily offered this evidence in the hearings before the Commission, presumably because it was felt that it should be considered, appellants should not now be permitted to even infer an objection to the Commission's order because the evidence was in the record before the Commission. There is nothing to indicate, however, that it was given any weight by the Commission.

On the same page of their brief, it is said that the Commission concluded "that conditions in Southwestern territory were improving more relatively than in West-

ern Trunk line territory." What the Commission actually said was (R. 66):

> "These changed conditions have operated to change materially the relative positions of the two groups of carriers to the advantage of those serving the Southwest."

It is true, as stated on page 10 of appellants' brief, that upon the basis of a table showing density for 1922, 1923 and 1924, included by it in its report (R. 74), the Commission stated that traffic density was over 50 per cent greater in the Western Trunk line group than in the Southwest. In its first report, however, the Commission said (R. 68):

> "There can be little doubt that traffic density has increased during the past 30 years in much greater ratio in the Southwest than in western trunk line territory."

Also, in the same report, the Commission said (R. 77):

> "Statistics above described, however, have shown that general trend with respect to traffic density is more favorable to defendants than to complainants."

In their statement (pp. 11 *et seq.*, appellant's brief), considerable space is devoted to an exposition of the Commission's statements in its first report (R. 78) that the vital thing to ascertain is relative cost of service; that that cost in the Southwest was from 15 per cent to 20 per cent greater than in Western Trunk line territory (R. 78, 83), and it is alleged that under the Commission's order, appellants do not retain ton-mile earnings 20 per cent greater than those of the Western Trunk lines. This alleged discrepancy was urged upon the Commission in the petition for rehearing filed by the Southwestern lines, and with respect to it, the Commission said in its second report (R. 101, 102) that while cost of service was vital, it was required to and had taken into consideration all other factors mentioned in Section 15 (6) of the Inter-

state Commerce Act. And in the same report, the Commission said (R. 104, 105):

> "So far as relative cost of service was concerned, we did not rest content with the statement of detached facts, and a jump from them to more or less arbitrary conclusions, but we attempted to bind these facts together through statistics fairly expressive of their net results."

After a full discussion of the argument made by the Southwestern lines, the Commission further said (R. 105):

> "The final result was not the product of the statistics alone but was reached in the exercise of judgment after considering all of the pertinent evidence."

The trial court also dealt with this matter and in disposing of it said (R. 1323):

> "While the relative cost of service in the two groups was a vital thing to be ascertained, it does not follow that the solution of the Commission's problem was dependent entirely and only on this determination. Vital as this factor may have been, it does not follow that the result of the Commission's order should, in disregard of every other factor, mathematically produce a result which reflects the difference in the cost of service in the two groups. * * * The finding of the Commission as to the cost of service was simply an approximation and purported only to be such, and the Commission's report does not indicate that the difference in cost should be reflected in the distribution of revenue."

We refer to these matters in this detail, not because the assertions in appellants' brief make the facts, but so this Court will understand that both the Commission and the lower court gave full and proper consideration to every claim advanced by appellants, and not only based their conclusions upon the facts of record, but gave their reasons in full for reaching those conclusions.

At pages 21 and 22 of their brief, appellants call attention to what they term the "curious results" of the

Commission's order. It is said that the Louisiana & Arkansas Railway, Midland Valley Railroad and the Texarkana & Forth Smith Railway will not be required to pay increased divisions to the Western Trunk lines under the Commission's order, since they are not respondents, and that the Louisiana Railway & Navigation Company, Kansas, Oklahoma & Gulf Railway and Kansas City Southern Railway will be required to pay, as they are respondents. This is not a correct statement of the effect of the Commission's order.

The order only deals with the divisions north and south of Kansas City, St. Louis, East St. Louis, Cairo, Gale and Thebes (R. 109). These are the junctions upon which the divisions between the Southwestern lines and Western Trunk lines are made. The order does not relate to and does not affect the subdivisions of the revenue north and south of those junctions, nor was it necessary that it should. *U. S. & Abilene & S. Ry. Co.* 265 U. S. 274, 283. The statement in appellants' brief assumes that the order requires an increase to the Western Trunk lines on all traffic, which is not so. Sheet 3 of petitioners' Exhibit 10, introduced on the hearing in the lower court (R. 1226) and certified to this court (R. 1297), shows that on northbound oil and lumber via Kansas City, for example, the Commission's order will decrease the revenue of the Western Trunk lines.

Appellants' statement also assumes that any decrease in the earnings of the Southwestern lines will be participated in by all respondents, whereas, this depends upon the subdivision of Southwestern line's revenue, a matter not dealt with in the Commission's report. No one can correctly assume that the order of the Commission will decrease the earnings of any particular Southwestern carrier, unless those earnings accrue on traffic as to which the Western Trunk lines were given an increase,

and unless the particular Southwestern carrier is the only carrier handling the traffic in Southwestern territory.

On page 23 of their brief, appellants state that no reservation is made in the Commission's order of the right to any respondent to apply for adjustments, such as was contained in the *New England Divisions case,* 261 U. S. 184. This is incorrect. In the *New England Divisions case, supra,* this court said (p. 187) that the Commission's order was to continue in force only until further order of the Commission. In this case both the first order of the Commission (R. 109) and the second order (R. 113) contain the following language:

> "And it is further ordered that this order shall continue in force until the further order of the Commission."

This language preserves to appellants the same right of further appeal to the Commission that was given to the defendants in the *New England Divisions case, supra.*

It is also significant that of the thirty-two railroads in Southwestern territory named as respondents in the Commission's order of July 25, 1929 (R. 113), only twenty-four attacked the order of the Commission in court and now appear here as appellants. The other eight have not joined in the attack on the Commission's order and are presumably satisfied with it. Included in the list of carriers which have not attacked the Commission's order are such important lines as the Atchison, Topeka & Santa Fe Railway Company, Chicago, Rock Island & Pacific Railway Company, Chicago, Rock Island & Gulf Railway Company, Gulf, Colorado & Santa Fe Railway Company, and Panhandle & Santa Fe Railway Company. In this respect also, this case is similar to the *New England Divisions case, supra* (p. 188).

SUMMARY OF ARGUMENT.

I.

The action of the Commission was in accordance with the statutory power conferred upon it. The evidence introduced before it was sufficient to justify the order and the Commission was not required to establish different divisions with respect to traffic moving over different carriers north and south of the junctions.

II.

The order of the Commission does not operate to confiscate the property of appellants and to take their properties without due process of law. Confiscation in this case is not proven by a showing of rates of return alleged to be inadequate. Moreover, there was no claim made before the Commission that the property of appellants would be confiscated through an order reducing their divisions and it cannot be urged now.

III.

The Commission's order is valid in so far as it undertakes to fix divisions on traffic to and from points east of the Illinois-Indiana state line. The Eastern carriers were not necessary parties and evidence with respect to their divisions was not required.

IV.

Cost of service was only one of many factors to be considered in fixing the divisions in issue. There was no obligation upon the Commission, therefore, to establish divisions which exactly or even approximately reflect approximate differences in cost of transportation.

V.

The order is in the public interest and the Commission did not exceed its authority in making it.

VI.

The evidence introduced in the hearings before the Commission was complete and definite as it was possible for it to be. It fully supports the reports of the Commission and its orders.

VII.

The evidence before the Commission fully supports the order, and no assumptions were made by it not founded in the evidence. Nor did it consider any matters essential to a disposition of the case and which were not introduced in evidence.

VIII.

The order of the Commission is supported by substantial evidence and there was no irregularity in the proceedings before it and no error was made in the application of rules of law. Its order must, therefore, be sustained.

ARGUMENT.

I.

THE ACTION OF THE COMMISSION WAS IN ACCORDANCE WITH THE STATUTORY POWER CONFERRED UPON IT. THE EVIDENCE INTRODUCED BEFORE IT WAS SUFFICIENT TO JUSTIFY THE ORDER AND THE COMMISSION WAS NOT REQUIRED TO ESTABLISH DIFFERENT DIVISIONS WITH RESPECT TO TRAFFIC MOVING OVER DIFFERENT CARRIERS NORTH AND SOUTH OF THE JUNCTIONS.

At pages 29 to 55, inclusive, of appellants' brief, an exhaustive argument is made to support the claim that the order here assailed is invalid because it deals with the divisions in the aggregate, nroth and south of the junctions. This argument apparently does not go to the point that the record before the Commission was insufficient. The point urged seems to be that Section 15 (6) of the Interstate Commerce Act requires the Commission to consider the conditions on each individual railroad; that the Commission did not do this, its failure to do so being evidenced by the fact that its decision deals with the divisions in the aggregate, and that its order is, therefore, void. At page 55 of their brief, this argument of appellants is summarized in the statement:

> "That the Commission exceeded its statutory authority in making the orders complained of, has, we feel, been demonstrated by what has been said above."

It may be conceded that in this case the divisions were dealt with by the Commission on a group basis, but it is equally clear that the order "is based upon evidence which the Commission assumed was typical in character and ample in quantity to justify the finding made in re-

spect to each division of each rate of every carrier". *New England Divisions Case*, 261 U. S. 184, 196. It should be observed that appellants nowhere contend that the record did not contain the evidence which they claim the Commission should have considered but did not. In fact, they have gone to some pains to demonstrate that the record was complete with respect to the rates, divisions and other facts relating to each individual respondent, and in this they are correct.

All of the tariffs containing the rates in effect at the time of the hearings, and the divisions of which were in issue, were stipulated into the record (R. 1298). The division sheets were physically put in evidence as Exhibits A-5, A-6, A-7 (R. 168 *et seq.*), A-236 (R. 886), and A-200 (R. 837). The application of the divisions contained in these division sheets to the rates carried in the tariffs, as made in the case of individual shipments, was shown in detail in Exhibits A-41 to A-49, inclusive (R. 247 *et seq.*) and Exhibits A-116 to A-123, inclusive (R. 501 *et seq.*). These exhibits covered all carload traffic moving in June and October, 1924, over the lines of the respondents in the proceedings before the Commission, between Western Trunk line territory and Southwestern territory. With respect to each such shipment, they showed the total revenue, junction, originating and delivering line, commodity, origin, destination, weight, length of haul north and south of junction, total revenue as divided, revenue per car mile in cents, tons hauled one mile, and much other miscellaneous information.

As is pointed out by the lower court in its decision herein (R. 1329), these exhibits are of the same character as the September, 1928, test introduced in the lower court by appellants (petitioners' Exh. 10, R. 1226), and which, it was claimed (R. 1225), adequately, completely and

fully showed exactly what would happen under the divisional arrangement prescribed by the Commission. In addition to these 17 exhibits, 169 others were introduced by respondents to show the character of the traffic and the rates and divisions thereon. These exhibits showed every conceivable fact with respect to all commodities handled by every respondent.

Thirteen exhibits showing general operating statistics were introduced by the parties. Exhibit A-124 (R. 512) introduced by the Southwestern lines, and Exhibit A-241 (R. 922) introduced by the Western Trunk lines, are representative of this class of exhibits. They show every fact with respect to the income, expenses, investment, rate of return and density of traffic of each respondent. Forty-nine exhibits were introduced by all respondents to show the physical characteristics of their individual lines, and the efficiency of their operation. In addition many other exhibits were offered, showing rate levels, mileages, rate scales and other pertinent facts. And all these exhibits were accompanied by detailed testimony given by no less than 38 witnesses.

This evidence was ample to enable the Commission to give due consideration to every factor mentioned in Section 15 (6) of the Interstate Commerce Act and every other fact or circumstance having a bearing on the issues. That it did so with respect to each respondent is apparent from its reports, even though the order deals with the divisions in the aggregate. In its first report the Commission said, after referring to the matters required to be given consideration under Section 15 (6) of the Interstate Commerce Act (R. 85):

> "In reaching our conclusions, we have taken all these matters into consideration to the extent that the record makes it possible to do so."

The matters there referred to are the same matters

which appellants say the Commission should have considered, and it is certain and not disputed, that the record was ample to enable the Commission to give full consideration to every factor mentioned in the statute. Indeed, the Commission could not have failed to give consideration to the facts with respect to each carrier, for the proof before it was made in that manner.

Under these circumstances, we submit that the decision of this court in the *New England Divisions Case, supra,* is conclusive. In that case the facts were substantially the same as they are in the case at bar. At page 514 of its first decision in that case (62 I. C. C. 513), the Commission said:

> "Complainants urge that the divisions be treated 'as a whole', not individually; that is, that blanket increases be applied to the divisions without regard to the specific divisions of individual joint rates."

Again, at page 548, it said:

> "The exhibits were not submitted to show that any particular division is unjust, unreasonable, or inequitable; no attempt was made to deal with divisions individually; and all of complainants' traffic witnesses stated they dealt with the situation only 'as a whole'."

A somewhat different situation exists in the case at bar, in that the individual divisions of each respondent are dealt with in the evidence, and the impropriety found by the Commission was shown to exist with respect to each such division. The Commission apparently had some doubt of its authority to do as it was then requested, for at page 563 of its opinion it said:

> "To treat the complainants 'as a whole' or as a group would disregard the differences which obtain between the complainants individually. Much of the evidence adduced was solely in behalf of the New Haven and manifestly has no application to conditions on the Bangor & Aroostook, the Central Ver-

mont, or the Rutland. The conditions obtaining on the lines of complainants are so essentially dissimilar that general relief would not afford each of them reasonable and equitable divisions."

In that decision, the Commission, while recognizing the impropriety of the divisions attacked, entered no order and suggested the establishment of proper divisions through conference. Commissioner Eastman dissented from the conclusion of the Commission with respect to its power to establish divisions in the aggregate, taking the position that if the Commission did not have the power to fix divisions in the manner suggested, it would be deprived of a substantial jurisdiction obviously intended to be conferred upon it under the Transportation Act of 1920. Commissioners Potter, Campbell and McChord concurred in his dissent.

The second report of the Commission in this case appears at 66 I. C. C. 196, from which it appears that the readjustment suggested by the Commission had not been carried out, and that an order was necessary. Therefore, upon the record which had theretofore been made, the Commission adopted the theory of its power contended for by Commissioner Eastman and those who agreed with him, and awarded to the New England carriers a 15 per cent increase in their divisions of the joint class rates and the joint commodity rates which divided on the same basis, excepting from the order the complainant, Bangor & Aroostook Railroad Company (p. 206).

Commissioner Hall expressed his "profound dissent" from this conclusion of the Commission (p. 208), pointing out that all the rail carriers in New England were not complainants and that all the other rail carriers in the United States were not defendants; that many of the defendants were in poorer financial condition than some complainants; and that no attempt was made to ascer-

tain the effect of the Commission's order upon individual defendants or to ascertain whether or not their divisions would be just and equitable under the order. Commissioner Daniels also dissented (p. 210), pointing out that the order did not affect all traffic nor all carriers participating in the traffic which was affected, and specifically condemned the theory that the Commission had the power to deal with the divisions in the aggregate. Commissioner Esch also dissented.

We have then, in the dissents from the second report of the Commission in the *New England Divisions Case*, a complete and comprehensive statement of the objections now urged by appellants to the order here involved. Every fact now urged by appellants was referred to in those dissents. The order of the Commission in that case dealt with the divisions in the aggregate, as the order in this case does; all the New England roads were not complainants in that case and all the Western Trunk lines were not respondents in this case; in that case many defendants were in worse financial condition than some of the complainants, and to some extent, that is true here; all the traffic was not affected by the order in that case, and the same thing is true here.

With this background, the *New England Divisions Case* was presented to this court and decided at 261 U. S. 184, the Commission's order being sustained. At page 187 of its decision, this court pointed out that the order was to continue in force only until the further order of the Commission. Exactly the same reservation is made in the orders here attacked.

At page 196 *et seq.* of its decision, this court dealt with the argument that the order was void because Congress did not confer authority upon the Commission

to fix divisions as between groups of carriers without considering the carriers individually. It is said:

> "Whether Congress did confer that authority, we have no occasion to consider; for the Commission did not base its order upon any such theory. The order directs a 15 per cent increase in the divisions to the several New England lines. It is comprehensive but it is based upon evidence which the Commission assumed was typical in character, and ample in quantity to justify the finding made in respect to each division of each rate of every carrier."

Exactly the same thing was done in the case at bar, for the orders attacked are based upon evidence much more ample in quantity than that introduced in the *New England Divisions Case.* Dealing with the claim that the Commission should have determined the divisions of each carrier upon a consideration of the evidence relating only to it, this court said in the *New England Divisions Case,* at page 197:

> "To require specific evidence, and separate adjudication, in respect to each division of each rate of each carrier, would be tantamount to denying the possibility of granting relief. We must assume that Congress knew this; and that it knew also that the Commission had been confronted with similar situations in the past and how it had dealt with them."

After referring to the practice of the Commission in making comprehensive rate changes, this Court said at page 198:

> "It was the actual necessities of procedure and administration which had led to the adoption of that method, in passing upon the reasonableness of proposed rate increases. The necessity of adopting a similar course when multitudes of divisions were to be passed upon was obvious. The method was equally appropriate in such enquiries; and we must assume that Congress intended to confer upon the Commission power to pursue it. • • • It might, therefore, have declared in terms, that if the Commission finds that evidence introduced is typical of traffic and operating conditions, and of the joint

> rates and divisions, of the carriers of a group, it may be accepted as *prima facie* evidence bearing upon the proper divisions of each joint rate of every carrier in that group. Congress did so provide, in effect, when it imposed upon the Commission the duty of determining the divisions. For only in that way could the task be performed. As pointed out in *Railroad Commission of Wisconsin* v. *Chicago, Burlington & Quincy R. R. Co.*, 257 U. S. 563, 579, serious injustice to any carrier could be avoided, by availing of the saving clause which allows anyone to except itself from the order, in whole or in part, on proper showing."

The decision of this Court in the *New England Divisions Case, supra*, in view of the history of that case before the Commission, would seem to completely dispose of the argument now made by appellants.

Nor do the decisions of this Court in *U. S.* v. *Abilene & Southern R. Co.*, 265 U. S. 274, and in *Brimstone R. Co.* v. *U. S.*, 276 U. S. 104, help appellants' argument. In both of those cases, the principle of the *New England Divisions Case, supra*, is affirmed. In the *Abilene & Southern Case*, the language quoted in appellants' brief (p. 36) only condemns an inference that existing divisions of every joint rate are unjust because the aggregate result appears to be unjust; and the *Brimstone Case* only condemns an order which required the Brimstone Company to give up something because, as stated by this court, its revenue appeared unduly large. In both cases, however, this court affirmed the right of the Commission to make an order, if, as stated in the *New England Divisions Case, supra*, it is based on evidence which, in the Commission's opinion, is typical in character and ample in quantity to justify the finding made in respect to each division of each rate of every carrier. That there was such evidence before the Commission in this case cannot be disputed.

In the *New England Divisions Case, supra*, this court

referred to the impossibility of administering the law if a separate adjudication of each division of each rate was required. The correctness of this conclusion is demonstrated on the record in this case. Upon the last hearing before the Commission, held at Washington on June 29, 1926, inquiry was made by the Examiner as to the method that the parties expected the Commission to adopt in disposing of the case. The Examiner inquired (R. 1109):

> "What I was trying to get at is the Commission will have to decide this case, and my question to you is whether you expect this Commission to pass on all the different divisions by the different gateways, and tell you whether the rates should break on St. Louis or Kansas City, on one commodity and not on the other, or whether it should be on a constructive mileage prorate or on any other basis."

The following colloquy then occurred:

> "Mr. Towner: So far as I am concerned I do not expect the Commission to go into that detail in respect to divisions.
>
> Examiner Disque: What do you expect?
>
> Mr. Towner: I expect the Commission to prescribe some sort of mileage basis.
>
> Examiner Disque: What sort of mileage basis, a mile and a half or a mile and a quarter?
>
> Mr. Towner: Whatever the Commission finds to be proper between groups.
>
> Examiner Disque: In the aggregate?
>
> Mr. Towner: Yes, sir, and then we ought to be able to work it out.
>
> Mr. Muckley: You mean without splitting up the territory?
>
> Mr. Towner: You are going into too much detail. In answer to Mr. Disque's question whether I expect to go into that detail, I will say I do not.
>
> Mr. Muckley: You mean in each division?
>
> Mr. Towner: What I meant was to take each rate on individual commodities, or anything of that sort. I do not intend that.
>
> Mr. Muckley: I do not think the case could ever

be decided if you did that, because it would take too long."

Here we have a concrete admission by one of the principal counsel for appellants that if the Commission was required to do what appellants contend it should have done, it could not have decided the case. Certainly, when Section 15(6) of the Interstate Commerce Act was enacted into law, the Congress intended to confer a definite power upon the Commission. It would seem rather absurd to construe the statute in such a way as to prevent the Commission from exercising that power. This court has already declined to so construe it.

Nor does the order of the Commission produce the results alleged by appellants at pages 43 *et seq.* of their brief. It does not require Kansas City, Mexico & Orient Railway, the St. Louis Southwestern Railway Company of Texas, the Kansas, Oklahoma & Gulf Railway, and the Louisiana Railway & Navigation Company to pay any amounts to any railroad in Western Trunk line territory, and does not require the Missouri-Kansas-Texas Railroad or the Kansas City Southern to pay the amounts mentioned by appellants to the Illinois Central and Burlington. As we have heretofore pointed out, the order only relates to the division of total revenue at the junctions where the traffic is interchanged between the Western Trunk lines and the Southwestern lines. As we have also pointed out, the divisions of the Western Trunk lines are not increased on all traffic.

In cases where the order increases the revenue of the Western Trunk lines, the Southwestern lines which will lose money cannot be determined until a subdivision of revenue is agreed upon by the Southwestern lines. This is a matter not dealt with in the Commission's order. The evidence referred to by appellants in support of their statement (R. 1230, 1232, 1234) consists entirely of

estimates, in which it is assumed that the losses and gains will accrue to the roads named. It was not necessary that the Commission's order should pass on the subdivisions of revenue north and south of the junctions. This court said in *U. S.* v. *Abilene & Southern R. Co., supra,* at page 283:

> "For it was not necessary that all controversies which may conceivably arise should be settled in a single proceeding."

Appellants take exception to the Commission's statement (R. 99) that the case was tried by all respondents on a group basis, and the holding of the lower court to this effect (R. 1326 *et seq.*), but that this was so cannot be doubted. One witness connected with the St. Louis-San Francisco Railway undertook to limit his testimony to his own railway, whereupon he was corrected by his counsel, one of the solicitors for appellants, who said to him:

> "You are representing all of the carriers of the Southwest here."

Later on, the counsel for the Southern Pacific, one of the solicitors for appellants in this court, said to the same witness:

> "You are speaking now for all lines in the Southwest, are you not?"

to which the witness replied (R. 839):

> "Yes, sir."

Another witness, associated with the Atchison, Topeka & Santa Fe Railway Company, introduced his testimony on the hearings before the Commission as follows (R. 539):

> "The Southwestern lines, believing a history in so far as it is available, of the class rates * * * would be helpful in reaching a decision in this proceeding, submit the following."

Another witness, associated with the Missouri Pacific

Railroad, one of the appellants here, testified (R. 595, 596):

> "The Southwestern lines found it necessary to assign the testimony with respect to divisions to individual carriers, depending upon the gateways or states of the Southwest in which their line is more vitally interested. * * * My testimony will therefore include all of the interested Southwestern lines in connection with the divisions via the several gateways and Southwestern states previously mentioned."

The foregoing is representative of the manner in which the proceedings before the Commission were conducted by the Southwestern carriers. Even the statement of Mr. Dana (R. 902) quoted in appellants' brief (pp. 48, 49) relates to the fixation of divisions by groups. In his proposed report, the Examiner of the Commission (R. 1185) dealt with the divisions north and south of the junctions in the aggregate, but the Southwestern lines filed no exceptions to this report. The first report of the Commission did the same, yet in their petition for rehearing, the Southwestern lines made no objection to this method of treating the matter. The point was raised in the lower court for the first time.

Nor can appellants avoid the effect of handling the case in this manner by claiming a lack of knowledge on their part as to the issues. As we have pointed out, the first order entered by the Commission fully advised them of what was in issue and what action was contemplated (R. 1169). And early in the hearings, they were advised by the Western Trunk lines that they felt they were not getting sufficient money in the division of the Southwestern rates (R. 358).

As a matter of fact, appellants' argument on this point, carried to its logical conclusion, would require a different divisional arrangement on practically every shipment

moving between Southwestern and Western Trunk line territories. The basis would even be different on shipments of the same commodity, between the same points, via the same junctions, if such shipments were handled by different Western Trunk lines north of the junction and different Southwestern lines south of the junction. Such a system of divisions would be grotesque, even if it was possible to put it into effect.

In the light of the record made before the Commission, and in view of this court's decision in the *New England Divisions Case, supra,* we submit that noly one answer is possible to this argument of appellants. That answer is appropriately expressed in the decision of this court in the *New England Divisions Case, supra,* and in the decision of the lower court in this case. No argument is put forth in this case which was not put forth with equal force in the *New England Divisions Case, supra.* No issue is here presented that was not there presented and decided adversely to appellants' contention.

II.

THE ORDER OF THE COMMISSION DOES NOT OPERATE TO CONFISCATE THE PROPERTY OF APPELLANTS AND TO TAKE THEIR PROPERTIES WITHOUT DUE PROCESS OF LAW. CONFISCATION IN THIS CASE IS NOT PROVEN BY A SHOWING OF RATES OF RETURN ALLEGED TO BE INADEQUATE. MOREOVER, THERE WAS NO CLAIM MADE BEFORE THE COMMISSION THAT THE PROPERTY OF APPELLANTS WOULD BE CONFISCATED THROUGH AN ORDER REDUCING THEIR DIVISIONS AND IT CANNOT BE URGED NOW.

In Subdivision II of appellants' brief, at pages 56 to 64, inclusive, it is argued that because appellants, on the evidence offered on the hearings before the Commission, were not earning as great a return upon their book in-

vestment as, perhaps, they should have earned, the order of the Commission is confiscatory and in violation of their constitutional rights. The legal theory of the argument is that since the Commission's order will, on the whole, decrease the earnings of appellants and lessen their rates of return, alleged to be already insufficient, confiscation necessarily results.

Appellants fall into the initial error of assuming that the order of the Commission was made primarily to relieve the financial necessities of the Western Trunk lines, whereas, this is not the case. It is true that the Commission found that the financial condition of the Western Trunk lines was not as good as that of the Southwestern lines, as in summarizing the evidence, it found (R. 86):

> "That the financial condition of complainants is not, on the whole, as good as that of defendants."

It is perfectly obvious, however, from a reading of the Commission's two reports that the financial condition of the Western Trunk lines was not the primary reason for the Commission's decision, although it was, of course, given consideration. The Commission, as appears from its reports, gave consideration to all factors which it was necessary for it to consider in order to reach its conclusion, and it decided, upon a consideration of all those factors, that the divisions were improper and should be changed.

The claim of confiscation was not urged before the Commission, although, as we have pointed out, appellants must have had in contemplation at all times the possibility of their divisions being reduced. The claim was made for the first time in the trial court, where that court disposed of it by saying (R. 1332):

> "This question does not seem to have been urged before the Commission, and the purpose of the order is not to take from one set of carriers revenue and transfer it upon another. The most that can be

claimed as to the evidence on this point is that it shows that certain of the railroads earn less than five and three-quarters per cent upon their total investment. This is not a sufficient basis for assailing the order in question. *N. P. R. R. Co.* v. *Dept. of Public Works*, 268 U. S. 39. There is no showing that the reduction in their share of revenue arising from traffic moving between the Western Trunk line territory and the Southwestern territory will operate in any way to confiscate petitioner's property."

The claim of confiscation in this court is based upon the same grounds as those urged in the trial court. The case of *United Railways* v. *West*, 280 U. S. 234, is cited, but that case was a street railway company case in which the entire value of the railway company's property had been proven and in which there was involved all the rates which the railway company was permitted to charge under an order of the Public Service Commission of Maryland. It is in no way analogous to the question here under discussion.

Nor are the *Minnesota Rate Cases*, 230 U. S. 352 in point. In those cases there was involved the application of rates fixed by the Railroad & Warehouse Commission of Minnesota, and the carriers contesting the rates put in evidence specific proof of the value of their properties in Minnesota and the return that would be allowed thereon under the rates established by the State Commission. It affirmatively appeared (p. 471) that the net earnings of the Minneapolis & St. Louis Railroad, referred to in petitioners' brief, on all its business in Minnesota, interstate and intrastate, involving any use of the Minnesota property which had been valued, was less than a fair return. And in *Norfolk & Western R. Co.* v. *Conley*, 236 U. S. 605, there was evidence in the record which enabled this court to conclude that the two-cent passenger rate then in issue was so low that as a result thereof, the com-

pany was forced to carry passengers, if not below cost, with merely a nominal reward.

Instead of presenting such a case as was presented to this court in the *United Railways Case, supra*, the *Minnesota Rate Cases, supra*, or the *Norfolk & Western Case, supra*, appellants rely entirely upon a showing that the rate of return earned by the Southwestern lines as a whole, on their book investment, during the years covered by the evidence before the Commission, upon all the traffic handled by them, was less than the 5.75 per cent return contemplated by Section 15 (a) of the Interstate Commerce Act and the 7.44 per cent return approved in the *United Railways Company Case, supra*. This proof is manifestly not sufficient. No argument is made that the reduction in their divisions resulting from the Commission' s order is the cause of that failure on their part to earn a higher return, and indeed no such argument could be made.

The rates of return on book investment, referred to by appellants as proving their claim of confiscation, are based upon system figures, which include the expenses incurred in and the revenue derived from handling all their traffic. There is included all kinds of freight, main line, branch line, interstate, intrastate, carload and less-than-carload traffic, affected by the Commission's order and traffic not affected by the Commission's order, and passenger traffic. The record contains no segregation of investment chargeable to the traffic affected by the Commission's order, no segregation of the cost of handling that traffic, and no segregation of the net return, derived from handling that traffic, upon the investment chargeable thereto. On this subject, the Commission said in its second report (R. 105):

> "Reverting to the criticisms in the petiton, we were compelled to use system statistics because the

carriers were unable to segregate the interchange traffic and show the respective costs of service for that alone, and no offer of such segregated costs is made in the present petition."

Under the decisions of this court, appellants cannot successfully contend that their property will be confiscated under the Commission's order, unless they can show that under that order, the revenue each appellant will receive in the division of the joint rates applicable on the traffic involved, is insufficient to pay the cost incurred by it in transporting such traffic and a fair return upon the value of the property devoted to its transportation. No such proof was offered before the Commission, nor in the lower court. For all that appears in the record, the failure of appellants to earn a proper return on their entire investment is due to their divisions on other traffic, to insufficient rates or some other cause.

In *Northern Pacific Railway Company* v. *Department of Public Works*, 268 U. S. 39, the railroads attacked an order of the Public Service Commission of Washington, which order required a reduction in the railroad rates on logs. As appears from the opinion of this court (p. 43), the railroads showed in their evidence that the existing rates were so low as not to yield any return upon the value of the property employed in the traffic, the operating cost incurred in handling it, and its proportion of taxes payable. In answer to this specific evidence which related only to the log traffic upon which the rates attack applied, the Department of Public Works showed that the system figures of the plaintiffs justified other conclusions. In describing this evidence of the Department, this court said at page 43:

"Instead of attempting to show by evidence, reasonably specific and direct, what the actual operating cost of this traffic was to the several carriers, the Department created a composite figure representing

the weighted average operating cost per 1,000 gross ton miles of all revenue freight carried on the four systems and made that figure a basis for estimating the operating cost of the log traffic in Washington. This was clearly erroneous. * * * A precise issue was the cost on each railroad of transporting logs in carload lots in western Washington, the average haul on each system being not more than 32 miles. In using the above composite figure in the determination of this issue, the Department necessarily ignored in the first place, the average unit cost on the several systems; and then the differences on each in the cost incident to the different classes of traffic and articles of merchandise, and to the widely varying conditions under which the transportation is conducted. In this unit cost figure, no account is taken of the differences in unit cost dependent, among other things, upon differences in the length of haul; in the character of the commodity; in the configuration of the country; in the density of the traffic; in the daily loaded car movement; in the nature of the equipment employed; in the extent to which the equipment is used; in the expenditures required for its maintenance. Main line and branch line freight, interstate and intrastate, carload and less-than-carload, are counted alike. The Department's error was fundamental in its nature."

Thus, the case made by the Department was condemned, because it arrived at its conclusions through a use of the same system figures used by appellants in arriving at their conclusion that the order of the Commission will confiscate their property. To the same effect is *Chicago, Milwaukee & St. Paul R. Co.* v. *Utilities Commission,* 274 U. S. 344. In *Interstate Commerce Commission* v. *U. P. R. R.,* 222 U. S. 541, this court said at page 549:

"Where the rates as a whole are under consideration, there is a possibility of deciding, with more or less certainty, whether the total earnings afford a reasonable return. But whether the carrier earned dividends or not sheds little light on the ques-

tion as to whether the rate on a particular article is reasonable."

The foregoing is cited with approval in *Northern Pacific Ry. Co.* v. *North Dakota,* 236 U. S. 585, 603.

It follows that in this case, as in the case cited, appellants claim that the Commission's order will operate to confiscate their property cannot be successfully predicated upon figures which show nothing but the rates of return received by them as a result of all their activities. It will be observed that in the arguments made by appellants on this point they do not even undertake to point out what percentage of their total traffic is represented by the traffic involved in the proceedings before the Commission. They have not even shown the rates of return on total book investment for their own lines alone, but base their argument on showings which include all Southwestern respondents, eight of whom did not attack the Commission's order, and are not before this court.

And it is interesting to observe that appellants' argument on their confiscation theory is made on a group basis only; the basis condemned by them when used by the Commission in entering its order. As a matter of fact, it is impossible at this time to say with assurance that any particular Southwestern line will lose money under the Commission's order, for as we have pointed out, that order requires an increase in some Southwestern divisions and does not prescribe any subdivision of Southwestern revenue among the Southwestern lines. The Southwestern lines do point out that but 2½ per cent of the revenue of the Western Trunk lines is derived from the joint rates, the divisions of which are fixed by the Commission, but refer to this fact only as a basis for the suggestion that a small rate increase would mean a greater increase in Western Trunk line revenue than the

increase in divisions required by the Commission's order.

On appellants' theory of the proof sufficient to show a confiscation, the Western Trunk lines are able to make a much better showing. In 1924, when the Southwestern lines, including the Santa Fe and Rock Island, earned 4.36 per cent on their book investment, the Western Trunk lines, on the same basis of computation, earned 3.55 per cent. In the same year, the Southwestern lines, excluding the Santa Fe and Rock Island, earned 4.44 per cent, and the Western Trunk lines, on the same basis of computation, earned 3.31 per cent (R. 80). Including the Santa Fe and Rock Island in both groups, the average rate of return on the investment of the Western Trunk lines for the years 1916 to 1925, inclusive, was 3.98 per cent, as compared with a rate of return of 4.30 per cent for the Southwestern lines. Excluding the San Francisco and Rock Island from both groups, the Western Trunk line average rate of return for the same years was 3.65 per cent as compared with the Southwestern line's average rate of return of 3.95 per cent. The same table shows that the strictly Western Trunk lines in 1924 earned 2.23 per cent on their book investment and the strictly Southwestern lines earned 4.81 per cent on their book investment (R. 84).

In the *Abilene & Southern Ry. Co. Case, supra* this court said, in discussing a somewhat similar claim made by defendants (p. 285):

> "It was not contended before the Commission that a reduction of the carriers' divisions would reduce their rates below what was compensatory. There is in the record no evidence on which it could be determined that any of the divisions ordered will result in confiscatory rates. And there is nothing in the order which prohibits rate increases."

All these things are equally true of the case at bar.

We submit that on the law and the evidence, appellants' claim of confiscation cannot prevail.

III.

THE COMMISSION'S ORDER IS VALID IN SO FAR AS IT UNDERTAKES TO FIX DIVISIONS ON TRAFFIC TO AND FROM POINTS EAST OF THE ILLINOIS-INDIANA STATE LINE. THE EASTERN CARRIERS WERE NOT NECESSARY PARTIES AND EVIDENCE WITH RESPECT TO THEIR DIVISIONS WAS NOT REQUIRED.

The fifth paragraph of the Commission's order of June 10, 1929, (R. 112) establishes the divisional basis to be applied in the division of the rates applying on traffic between points in Southwestern territory and points in the territory east of the Illinois-Indiana State line and north of the Ohio River. That portion of the Commission's order provides:

> "The just, reasonable and equitable divisions, in the aggregate, south and north of the said gateways of the shares of said joint rates accruing to the above listed respondents participating therein shall be determined on and after August 1, 1929, etc."

This paragraph of the order provides for the division between the Western Trunk line and the Southwestern line of that revenue which accrues to both groups of carriers on the traffic to and from the East and is easily understood under a complete statement of the facts. The statement made by appellants in connection with this point, at page 65 *et seq.* of their brief, does not contain all the facts and is otherwise inaccurate.

As appears from the testimony of Mr. Leland (R. 1290 *et seq.*), when the divisions of the rates between the Southwest and Eastern territory were made applicable to Mississippi River crossings north of East

St. Louis, it became necessary for both the Southwestern and Eastern carriers to use the Western Trunk lines. Appellants point out (p. 66, appellants' brief) that the Eastern carriers must use the Western Trunk lines to reach the upper Mississippi River crossings. They do not point out, however, that the Southwestern carriers must also use the Western Trunk lines to reach the same crossings, and yet this is the fact, since no Southwestern line serves any Mississippi River crossing north of East St. Louis.

Thus, a through line is formed, consisting of the Southwestern lines at one end, the Eastern carriers at the other end, and the Western Trunk lines in the middle. The Western Trunk lines are not only employed to perform the transportation between their connections with the Eastern carriers and the Mississippi River but are also employed to perform the transportation between their connections with the Southwestern lines and the Mississippi River.

In dividing the joint rates on traffic moving over these through routes, the primary division is made on the Mississippi River (R. 1291). The Western Trunk lines participate in the transportation east and west of the Mississippi River, and as Eastern carriers, participate with other Eastern carriers in the subdivision of the revenue assigned to the total service east of the River, and as Western carriers, also participate with the Southwestern lines in the subdivision of the revenue assigned to the total service west of the River (R. 1293).

Appellants say that the Southwestern lines have never had any relations with the Western Trunk lines on this class of traffic, but this is not in accordance with the record. Mr. Leland said (R. 1291) that the Western Trunk lines had an arrangement with the Southwestern lines for dividing the revenue remaining to all of them for

the total service performed west of the Mississippi, after the lines performing the service east of the River had taken the revenue assigned for their service. It is this arrangement between the Western Trunk lines and the Southwestern lines which is affected by Paragraph 5 of the Commission's order.

The Southwestern lines do not participate in the revenue on this traffic assigned to the service east of the Mississippi, but this is proper, for they do not participate in that part of the transportation. Nor do the Eastern carriers have any interest in the division between the Western Trunk lines and the Southwestern carriers of the revenue assigned to the total service west of the River, for they do not participate in that part of the transportation.

Paragraph 5 of the Commission's order does not in any way relate to or affect the revenue which accrues to the lines handling the traffic east of the River and in which the Eastern lines are interested. It only relates to the subdivision of that portion of the revenue assigned to the total service west of the River and which is divided between the Western Trunk lines and the Southwestern lines. For this reason, the Eastern carriers were not necessary parties to the proceeding; in fact, they would not have been even proper parties, since their revenue was not in issue and is not affected by the order. Appellants have apparently failed to understand that the Western Trunk lines act in a dual capacity in the transportation of the Eastern traffic affected by the Commission's order, and that only the division between the Western Trunk lines and the Southwestern carriers is affected by the Commission's order. The effect of that order is not to increase the revenue received by the Western Trunk lines from the Eastern carriers, as stated by appellants (pp. 66, 67, appellants' brief), but is

to readjust the division between the Western Trunk lines and the Southwestern carriers of the revenue assigned to the total service west of the River. It is settled that the Commission's order may be so limited. *U. S.* v. *Abilene & Southern R. Co. supra.* Since the argument of the Southwestern lines on this point is based on the incorrect assumption that the revenue of the Eastern lines is affected by the Commission's order, the argument must fail. The lower court so held (R. 1337).

IV.

COST OF SERVICE WAS ONLY ONE OF MANY FACTORS TO BE CONSIDERED IN FIXING THE DIVISIONS IN ISSUE. THERE WAS NO OBLIGATION UPON THE COMMISSION, THEREFORE, TO ESTABLISH DIVISIONS WHICH EXACTLY OR EVEN APPROXIMATELY REFLECT APPROXIMATE DIFFERENCE IN COST OF TRANSPORTATION.

Pages 71 to 83, inclusive, of appellants' brief are devoted to an attack upon the Commission's order because the Commission stated an approximation of the differences in cost of transportation in Southwestern territory as compared with Western Trunk line territory, and, as alleged by appellants, did not thereafter establish divisions which exactly reflected this difference in cost.

We say this because the statements from the Commission's reports, quoted by appellants, refer directly to cost of service. Appellants seem to be somewhat confused with respect to the point they are arguing, however, for they say (p. 72, appellants' brief), referring to the Commission:

> "It did state some considerations which in its opinion showed that a finding that the Southwestern respondents were entitled to an average revenue per ton mile 20 per cent greater than the Western Trunk

lines respondents was not unfair to the Southwestern respondents."

Appellants refer to no finding of the Commission to this effect, and as a mater of fact, the Commission did not so find. There is a substantial difference between a finding that the Southwestern lines are entitled to 20 per cent greater revenue per ton mile than the Western Trunk lines, and a finding of relative cost of service.

The objection now urged to the Commission's order was urged in the lower court and that court dealt with it in considerable detail (R. 1322 *et seq.*). The contention of appellants made in the lower court and now urged here, was accurately stated in the lower court's opinion, and may be shortly stated as follows:

Appellants refer to that language in the Commission's first report in which it is said that relative cost of service is a vital thing to ascertain. They then quote some of that language of the Commission in which that cost is approximated within rather wide limits so far as it is capable of approximation. For example, the Commission said, referring to the freight operating expenses per ton mile in 1924 of Class I carriers operating within the two groups, that "these figures indicate that it cost somewhere in the neighborhood of 15 per cent more per ton mile to haul freight in the Southwest than in Western Trunk line territory" (R. 78); that on the average of 1923 and 1924 operations the cost in the Southwest was "somewhere in the neighborhood of 20 per cent greater" than in Western Trunk line territory; that in 1924 it was "somewhere in the neghborhood of 17 per cent greater" (R. 83), and that the cost of operation per ton mile in the Southwest "probably does not average as much as 20 per cent higher" than in Western Trunk line territory (R. 86). All the foregoing statements had reference to the relative cost of handling all traffic in

both territories, and did not relate to the cost of handling the traffic involved in the proceeding before the Commission. The Commission also referred to the impossibility of securing the costs on the particular traffic involved (R. 85) and in its second report, to the fact that no offer of segregate costs was made by the Southwestern lines in their petition for rehearing (R. 105).

Having sorted the general statements on relative costs out of the first report of the Commission, and assuming them to be definite findings, the complaint of appellants apparently is that the revenue per ton mile received by them under an application of the Commission's order is not as much greater, in percentages, as the cost of transportation approximated by the Commission. This specific point was called to the attention of the Commission in the petition for rehearing and it dealt with the matter in detail in its second report (R. 103 *et seq.*).

There are many complete and obvious answers to appellants' argument. One is that it is based entirely upon evidence offered in the trial court for the first time and not submitted in the hearings before the Commission. Objection was made to this evidence when offered and the objection should have been sustained. In *Tagg Brothers et al.* v. *United States et al.* 74 L. Ed. 287, which was a case involving the validity of an order of the Secretary of Agriculture, this court said at page 295:

> "The validity of an order of the Secretary, like that of an order of the Interstate Commerce Commission, must be determined upon the record of the proceedings before him,—save as there may be an exception of issues presenting claims of constitutional right, a matter which need not be considered or decided now * * *. To allow his findings to be attacked or supported in court by new evidence

would substitute the court for the administrative tribunal as the rate making body."

Moverover, there is no sufficient proof in the record that the application of the Commission's order will produce the results alleged by appellants. Their contention that the application of the order will not produce to them ton-mile earnings, greater by from 17 per cent to 20 per cent than the ton-mile earnings of the Western Trunk lines, is based entirely upon the testimony of witnesses Bone (R. 1225 *et seq.*) and Buechner (1227 *et seq.*). Mr. Bone introduced petitioners' Exhibit 10 in the trial court (R. 1226), but only identified it as being a printed statement

"showing the result of a study of the divisions as actually settled by the Western Trunk line respondents and the Southwestern line respondents of the revenue on traffic for the month of September, 1928, which is affected by the Commission's order."

He did not undertake to testify that this study, which covered only one month of 1928, was representative or reflected what the results of the Commission's order would be if applied over a greater period of time.

Mr. Buechner introduced as petitioners' Exhibit 11 (R. 1227), a statement concerning which he said that it showed that under the Commission's order, as applied to traffic handled by respondents during September, 1928, the Southwestern lines would receive 9 per cent more revenue per ton mile than the Western Trunk lines, instead of 20 per cent more (R. 1227). This same witness also introduced petitioners' Exhibit 13 (R. 1228), in which he undertook to show that on the basis of the traffic tests for June and October, 1924, introduced in the hearings before the Commission (Ex. A-41 to A-49, inc., to R. 247 *et seq.*, Ex. A-116 to A-124, inc., R. 501 *et seq.*), the Southwestern lines would fail, by stated amounts, to earn 20 per cent more revenue per ton mile than the Western Trunk lines.

We submit that this evidence does not prove that a complete application of the Commission's order to all traffic affected thereby would produce the results claimed by appellants. Even if it is proper to sort out the isolated statements with respect to relative cost and disregard everything else, and even if it was possible and required, that the Commission establish divisions which reflect the varying relation of cost approximated by it, we still submit that the proof that this has not been done should be complete and definite.

Such proof is not before this court. The evidence relied upon by appellants to show the fact, consists of petitioner's Exhibits 10 and 11, which are not said to be representative and typical, and petitioners' Exhibit 13, which is based on statements which were undoubtedly typical of the traffic at the time they were put in the Commission's record but are now six years old. We submit that such proof is not sufficient to demonstrate that the order does not produce the results which appellants say it should produce. And even if the order does not now produce these results, it may do so in the future. The Commission was not prescribing divisions for a day only but for an indefinite time in the future and with respect to future conditions, the Commission said (R. 83):

> "The evidence indicates, as we have already pointed out, that the trend of changing conditions is more favorable to defendants than to complainants."

The position assumed by appellants in their argument is fundamentally unsound. As is pointed out in the opinion of the lower court (R. 1323 *et seq.*), appellants have selected cost of service as being the only factor to be considered in fixing the divisions. Their argument requires that every other factor which the law says the

Commission should consider, be ignored. In their petition for rehearing, the Southwestern lines insisted to the Commission that relative cost of service is not the only thing to be considered in fixing divisions, and that many other things must be considered. The Commission in its second report (R. 101, 102) conceded the correctness of this contention, saying:

> "There are other matters to be considered, such as the efficiency with which the carriers concerned are operated and the importance to the public of the transporation service of such carriers, but all of these we took into consideration after summarizing the pertinent evidence."

Appellants now reverse their position and instead of critizing the order because cost of service is given too much weight, insist, in effect, that it should be the only thing that should be given consideration. Had the Commission actually done this, its order would certainly have been invalid. It will be observed that appellants do not refer to any statement in either report of the Commission that its approximations of relative cost should be accurately reflected in the distribution of revenue. There is no such statement.

Moreover, there is not even a definite finding of relative cost upon which appellants' argument can be predicated. The statements of the Commission on the subject were indefinite, and this indefiniteness could not be avoided, for, as pointed out by the Commission in its second report (R. 105), it was impossible to segregate the cost on the traffic under consideration, and no offer of such segregated costs was made by petitioners in their petition for rehearing. In its reports, the Commission refers to cost differences "in the neighborhood of" 15 per cent, 17 per cent and 20 per cent, and to a difference something less than 20 per cent; these statements being based upon a consideration of all operations of the car-

riers. Is the Commission's order, affecting only a part of the traffic, to be condemned because it does not produce a distribution of revenue thereon, exactly reflecting the indefinite relative costs found to exist with respect to all traffic? We think not.

In the hearings before the Commission, the best proof possible was made. Both groups of carriers supplied the best and most exact evidence which could be secured. The first report of the Commission, in which all this evidence is discussed, is a connected, coherent whole. Every factor bearing upon the propriety of the divisions is discussed. All evidence relating to each of those factors is considered and assigned its due weight. The report reviews the evidence with respect to the revenue and the division thereof; the volume and character of the traffic; changes in the conditions in the two territories since the divisions were established; the character of the service performed by all respondents in the two territories; density of traffic; the physical operating conditions in the two territories; rate levels; general operating and revenue statistics of all respondents; efficiency of operation by all respondents; relative cost of service; relative lengths of haul; the financial conditions of respondents and other matters. We know of no rule of law which invalidates the Commission's order because it is not based entirely upon the conclusions reached by the Commission with respect to only one of the factors required to be considered.

It is again suggested by appellants in connection with this argument (p. 73 appellants' brief) that perhaps the record before the Commission was insufficient, although there is no definite statement that this is so. The insufficiency of the record is inferred, however, because of the Commission's statement that it had given consideration to all matters "to the extent that the record

makes it possible to do so." This language was an entirely legitimate limitation upon the Commission's statement. It is a far cry, however, from that language to the conclusion that the record was actually insufficient. As we have heretofore shown in some detail, the record before the Commission is complete and adequate in every respect.

There is also an inferred criticism of the Commission's report because "there were no findings with reference to the other matters specified in paragraph (6) of Section 15 of the Interstate Commerce Act" (p. 73 appellants' brief), although there is no statement that the law requires the Commission to make such findings, and at page 81 of their brief, appellants complain that the order is not based on the findings in the report. In any event, the statements numbered 1 to 6, contained in the first report of the Commission (R. 85, 86), are findings. Each and all of them are based upon evidence in the record, and support the propriety of an increase in the divisions allowed the Western Trunk lines.

The suggestion of appellants is that the defect alleged by them to exist in the Commission's order could have been obviated by ordering a division of the revenue on a mileage prorate (p. 78 appellants' brief). With respect to the propriety of such a basis of divisions, the Commission said in its first report (R. 64):

> "Nor does this fully indicate the relative advantage of the Southwestern lines, for a mileage prorate is by no means a perfect method of dividing joint rates, even where transportation and other conditions do not differ materially. It results in the same ton-mile revenue for each participating carrier, regardless of the length of haul and of the principle that, other things being equal, ton-mile yields should decrease as distance increases. New England Divisions, 126 I. C. C. 579, 667."

This is a matter committed to the exclusive jurisdiction of the Commission.

No case cited by appellants supports the argument they have made. In *Interstate Commerce Commission* v. *Chicago Burlington & Quincy R. R. Co.*, 186 U. S. 320, the Commission had made two definite findings that the components of the through rate attacked were reasonable. This court held that, having found both components reasonable, the total produced by adding the two together could not be found unreasonable or reduced. In *Interstate Commerce Commission* v. *L. & N. R. Co.*, 227 U. S. 88, and the *Chicago Junction Case*, 264 U. S. 258, it is only held that the facts proven in the evidence must support the order of the Commission.

We will concede that an order of the Commission cannot be sustained if there is no evidence in the record to support it, but that is not the case here. The evidence was ample to support every conclusion reached by the Commission, and an examination of the record will so show. In effect, appellants' argument is that instead of doing what it did do, the Commission should have taken a different view of the evidence and should have done something else. The whole question is, after all, one of weight to be given the evidence adduced before the Commission, and on this point, this court said in the *Louisville & Nashville Case, supra*, at page 98:

> "The value of such evidence necessarily varies according to circumstances, but the weight to be given it is peculiarly for the body experienced in such matters and familiar with the complexities, intricacies and history of rate-making in each section of the country."

On this point see also *Virginian Railway Company* v. *United States*, 272 U. S. 658, 663; and *Assigned Car Cases*, 274 U. S. 564, 580. Even had the Commission

made a definite and concrete finding with respect to the higher cost of transporting the traffic involved in the Southwest, and had then, after considering all other matters that it should consider, ordered divisions which did not reflect in the revenue the exact difference in cost found by it, we still submit that its order could not be successfully attacked on that ground. In the same *Louisville & Nashville Case, supra,* this court said, at page 98:

> "It is unnecessary in this case to review each of the matters discussed, ruled and found by the Commission in its Report and only the more salient facts will be mentioned. For the validity of the order does not necessarily depend upon the correctness of each of these findings, so that the breaking of one or many links by disproof would destroy the chain upon which the order depended. These findings are collateral and if correct might be confirmatory of the ruling, which, however, might still be sustained if some of these statements were eliminated. The question is whether there was substantial evidence to support the order."

And appellants' argument that relative cost of service should be the only matter to be considered, is answered in the *Abilene & Southern Case, supra,* where this court said, at page 284:

> "Relative cost of service is not the only factor to be considered in determining just divisions."

V.

THE ORDER IS IN THE PUBLIC INTEREST, AND THE COMMISSION DID NOT EXCEED ITS AUTHORITY IN MAKING IT.

At pages 83 *et seq.* of their brief, appellants argue that the Commission's order is not in the public interest, because, it is alleged, it requires some Southwestern carriers to pay increased divisions to some Western Trunk lines which are in better financial con-

dition, and is, therefore, void. The argument assumes that the Commission's order was entered for the sole purpose of relieving the financial distress of the Western Trunk lines, whereas, as we have pointed out, that is not the case. The lower court so found (R. 1331). It also assumes that individual Southwestern carriers will be compelled, under the order, to pay money to more prosperous Western Trunk lines, whereas, as we have pointed out, this does not appear from the record or the order and cannot be determined until there is a subdivision between the Southwestern carriers, of the revenue assigned to them on traffic upon which the Western Trunk lines are given larger divisions.

We have no quarrel with the cases cited by appellants in connection with this argument, except to point out that they have no particular bearing on the subject. It may be conceded that the Commission is required to take the financial needs of interested lines into consideration in fixing divisions, and their reports show that they did so in this case (R. 86). It may also be conceded that in fixing divisions the Commission is required to give consideration to the importance to the public of the transportation service of the carriers in each group, and their reports show that they did so in this case (R. 57, 58). We may also concede that an order of the Commission fixing divisions should be in the public interest, but the order here attacked cannot be criticized on the ground that it is not in the public interest. Having found the divisions as between the Western Trunk lines and the Southwestern lines to be improper, it is obvious that the Commission could only serve the public interest by entering an order requiring the necessary readjustments.

Even if we assume, as appellants claim, that the order here attacked will require some Southwestern

lines to pay increased divisions to some Western Trunk lines which are in better financial condition, that requirement will not invalidate the order. In the *New England Divisions Case, supra,* exactly the same situation existed. That fact was a primary ground of dissent mentioned by those members of the Commission who dissented from the conclusions of the majority (66 I. C. C. 196, 209). Notwithstanding this circumstance, this court sustained the Commission's order. With respect to the argument now made, the same conclusion should be reached.

VI.

THE EVIDENCE INTRODUCED IN THE HEARINGS BEFORE THE COMMISSION WAS COMPLETE AND DEFINITE AS IT WAS POSSIBLE FOR IT TO BE. IT FULLY SUPPORTS THE REPORTS OF THE COMMISSION AND ITS ORDERS.

At pages 86 to 91, inclusive, of their brief, appellants urge that the evidence before the Commission is so incomplete and unreliable that the order is wholly void. No reference, however, is made to any portion of the record or to any evidence alleged to be incomplete or unreliable, and there is no statement of any necessary proof that was not presented. Instead, reference is only made to certain portions of the Commission's first report in which the Commission reaches certain conclusions upon the evidence of record.

In considering this argument, it should be remembered that appellants were as much respondents in the proceeding before the Commission as the Western Trunk lines, and were under the same obligations with respect to the introduction of testimony if they desired to retain the divisions they were then receiving. While

appellants claim that the burden of proof was upon the Western Trunk lines, citing the *Abilene & Southern Case, supra,* in support of this contention, this is obviously not so in a proceeding of this character, instituted by the Commission on its own motion and in connection with which there was no specific complaint.

While the proceeding may have been adversary in character, this fact cannot impose upon any carrier or group of carriers any burden of proof. The designation of the Western Trunk lines by the Commission as complainants did not make them so, and did not purport to make them so, for the purpose of imposing upon them a burden with respect to the proof to be made. And if the expressed announcement of the Western Trunk lines that they wished a larger division of the rates involved, constituted ~~them~~ complainants to the extent of imposing any burden of proof upon them, the same thing must be true of appellants.

them

On pages 1 and 2 of the petition for rehearing, filed with the Commission by the Southwestern lines (Petitioners' Exhibit 6), appears the following language:

> "It is not a complaint case, where the Western Trunk lines have initially and openly complained of the divisions. However, the Commission has 'dubbed' the Western Trunk lines 'complainants' because it apparently had the idea that they were the aggressors, demanding greater division (Opinion, p. 458). The Southwestern lines also are contending for increased divisions from the Western Trunk lines and are as much complainants as are the Western Trunk lines, except that the Southwestern lines are more modest in their claims."

From the standpoint of demanding something, appellants were as much complainants before the Commission as the Western Trunk lines, and certainly had the same burden of proof to sustain.

Reverting to the quotations from the Commission's

first report, quoted in appellants' brief in connection with this argument, we submit that these quotations do not establish any incompleteness in the evidence. Such a fact, if it be a fact, should be capable of determination by a reference to the record, but no such reference is made by appellants.

The quotation from the Commission's report, and appearing at page 85 of the record, relates to system costs incurred by the respondents in handling all traffic. This is also true of the quotation said by appellants to appear at page 78 of the record, but which actually appears at page 83. The quotation from page 71 of the record relates to rate levels instead of density, as stated by appellants, and this is also true of the quotation from page 86 of the record. It thus appears that appellants' claim of incompleteness and unreliability in the record is based upon the Commission's failure to find a definite difference in the cost of handling the traffic involved in the two territories, and its inability to state the exact difference in rate levels in the two territories.

We have heretofore referred to the cost figures which were introduced in the record before the Commission. They were system figures, because, as stated by the Commission (R. 85, 105) costs applicable to the particular traffic under consideration could not be segregated. The system figures, however, were offered by both groups of carriers and covered several years. (Ex. A-38, R. 222; Ex. A-39, R. 228; Ex. A-51, R. 258; Ex. A-52, R. 262; Ex. A-53, R. 264; Ex. A-54, R. 266; Ex. A-78, A-79, A-80, R. 366; Ex. A-124, R. 512; Ex. A-241, R. 922).

These figures are, as stated by the Commission (R. 78), open to the objection that to some extent, they reflect the results of operation outside the two terri-

tories, but they constituted the best proof available. And in their petition for rehearing, filed after they knew of the proposed reduction in their divisions, the Southwestern lines made no offer to prove the costs incurred in handling the traffic under consideration, but contented themselves with criticizing the proof then in the record, part of which they had introduced (R. 105).

Under these circumstances the Commission cannot properly be criticized for failing to definitely state the costs incurred in handling the traffic involved. Nor was it required to do so. It was impossible for it to make a definite statement of the costs incurred in handling the traffic under consideration but, as is said in the opinion of the lower court (R. 1338), this circumstance should not deprive it of its jurisdiction and authority to act.

The same thing is true of the evidence with respect to rate levels. The rate levels in the two territories were fully proven in the record before the Commission (Ex. A-136, R. 581; Ex. A-186, R. 779; Ex. A-187, R. 780; Ex. A-188, R. 782; Ex. A-189, R. 783; Ex. A-190, R. 784; Ex. A-191, A-192, A-193, R. 788; Ex. A-194, A-195, R. 789; Ex. A-271, A-272, R. 1009; Ex. A-273, R. 1010; Ex. A-274, R. 1011). No one, from a consideration of the multitude of rates shown in these exhibits and applying on all manner of commodities in the two territories, could make a definite statement of just exactly how much higher or lower the Southwestern rates were by comparison with the Western Trunk line rates. It was a physical impossibility. What the Commission was required to do, and did do, is well stated in its first report, where it said (R. 85):

> "Obviously it is impossible to apply any mathematical formula which will operate with precision,

and it is necessary to be guided by general judgment after considering and weighing as well as we can the evidence before us."

This is an exactly correct statement of what it was necessary for the Commission to do and what it was supposed to do. It is for the purpose of doing this very thing that the Commission was brought into existence. It is supposed to have, and does have, an experience and knowledge enabling it to exercise better judgment with respect to these matters than courts or other commissions would have. It is not bound by strict rules of evidence, and there is a freedom and latitude in the proceedings before it consistent with the theory upon which it is supposed to and does function.

The Commission was not required to, and could not, produce definite statements such as appellants claim were necessary. The best proof available in the case, and which was offered before the Commission, was of such nature that it was not susceptible of reduction to definite figures. What the Commission was supposed to do, and did do, was to consider and weigh all the evidence and in the light thereof reach a conclusion as to what in its judgment was proper. Since this has been done, this court will not substitute its judgment for that of the Commission.

This, after all, is what appellants desire this court to do. They conclude their argument on this point by contending that upon the evidence before it the Commission should have done something else than it did do. They apparently desire this court to weigh the evidence before the Commission and decide that upon that evidence, the Commission should have reached a different conclusion. This, of coure, will not be done. *Assigned Car Cases, supra; Virginian Railway Company* v. *United States, supra; Interstate Commerce Commission* v. *Union Pacific R. R.*

Co., 222 U. S. 541; *Interstate Commerce Commission* v. *Louisville & Nashville Railroad, supra; Western Chemical Company* v. *United States*, 271 U. S. 268, 270.

The decision of this court in *Allen* v. *St. L. I. M. & S. R. Co.*, 230 U. S. 553, has no application here. That was a suit in which an injunction was asked on the ground that certain rates prescribed by state authority were confiscatory, and it was, of course, held that definite and specific proof would have to be made by the plaintiff if the injunction was to be granted. This situation does not obtain in division cases before the Commission. In this case, there was introduced in the proceedings before the Commission the best evidence which could be produced. The fact that the Commission did not reduce its findings to definite figures does not make that proof incomplete or unreliable, nor does it put the Commission in the position of making conjectures.

VII.

THE EVIDENCE BEFORE THE COMMISSION FULLY SUPPORTS THE ORDER, AND NO ASSUMPTIONS WERE MADE BY IT NOT FOUNDED IN THE EVIDENCE. NOR DID IT CONSIDER ANY MATTERS ESSENTIAL TO A DISPOSITION OF THE CASE AND WHICH WERE NOT INTRODUCED IN EVIDENCE.

At pages 91 *et seq.* of their brief, appellants have argued that in certain respects the Commission's order is based upon assumptions not supported by the evidence before it and upon matters not introduced in evidence. All the points made by appellants are susceptible of complete answer. We will deal with these matters in the order in which they are made by appellants.

1. It is first argued that the Commission erred in requiring a division of the Southwestern rates on a rate

prorate basis, using percentages of the first class rates established in the *Consolidated Southwestern Cases*, 123 I. C. C. 203, since the scale of rates prescribed in that case was not in evidence before the Commission.

It is true that the Southwestern scale prescribed in the *Consolidated Southwestern Cases*, 123, I. C. C. 203, was not in the record before the Commission. The Southwestern scale which was in effect at the time of the hearings before the Commission, however, was introduced in evidence and is shown in line D of Exhibit A-195 (R. 789). The scale prescribed in 1927 is but a modification and extension of the scale introduced in the record. Whether or not the scale was in the record is unimportant, for appellants' argument is based upon a misunderstanding of what the Commission did. In its first report, after considering all the evidence, the Commission said (R. 86):

> "In our opinion the divisions in issue are not just, reasonable and equitable. Many of them are unjust to complainants and some of them are unjust to defendants. To cure their defects, they must be readjusted upon a consistent basis which will as nearly as practicable reflect, in the light of all the facts of record, the differing conditions in the two territories."

They then required the necessary readjustment to be made through the use of the Southwestern scale. It will thus be observed that the case had been decided before the Southwestern scale was brought into the picture. It was resorted to only for the purpose of producing a result already concluded upon. This definitely appears from the second report of the Commission. In their petition for a rehearing, the Southwestern lines urged the same objections to the use of the Southwestern scale as are now urged. The Commission said (R. 96):

> "This criticism rests upon a misunderstanding of what we did. Our formula was merely a method of

adjusting the divisions to what we believed, upon the evidence, to be a fair approximation of the difference in conditions in the two territories. The southwestern scale furnished a convenient means of doing this, using 100 per cent of the scale in the Southwest and 80 and 87.5 per cent in the two parts of western trunk-line territory. Another scale with a similar progression, such as the southeastern, could have been used with substantially the same results. The southwestern scale seemed more appropriate, since it forms the basis of the class rates and many of the commodity rates not only within the Southwest but between the two territories. * * * The southwestern scale was in evidence and the assumed scales were percentages thereof used merely as parts of the mechanism for dividing the joint rates in the proportions warranted by the facts of record."

It further said in its second report (R. 99):

"As has already been explained, our rate-prorate formula was adopted as a mechanism for dividing the joint rates in the proportions which we found justified by the facts of record. In our opinion it is an appropriate mechanism for that purpose."

The argument of appellants on this point raises a question as to what the Commission actually did, and on such a subject, the Commission's own statement would seem to be conclusive. The necessary conclusion is that the Commission did not prescribe a rate prorate of the divisions in issue, using ~~percentages of~~ percentages of the first class rates in the Southwestern scale.

There is a substantial difference between the use of the Southwestern scale for the purpose of determining the propriety of the divisions and its use as a mechanism for putting the Commission's decision into effect. As a matter of fact, the Southwestern scale, which is a rate scale, was incapable of use in determining the propriety of divisions. It has nothing to do with and does not relate to divisions. Because of this it could not have been used as evidence of facts which it was deemed necessary to

prove. And as a means of producing a proper division of revenue, the Commission was as free to use it as a mileage prorate or any other method of producing the results desired.

Nor were the Southwestern lines deprived of any rights through lack of opportunity to show that the divisions produced through the use of the Commission's formula were improper. They had been given every opportunity to present any evidence they wished to present with respect to the proper division of revenue, and the Commission was under no obligation to grant their petition for rehearing. *Virginian Railway Co.* v. *United States, supra*, p. 668. Whether the Southwestern scale was in the record or not, we submit that its use as a means of producing the division of revenue found proper by the Commission is not within the prohibition of the *Abilene & Southern Railway Co. Case, supra,* and does not invalidate the order.

2. It is next urged that the Commission did not have before it evidence showing the cost of operation, investment, etc. confined to those portions of respondent's lines which are located within the territories involved in the proceeding before the Commission. We have already referred to this matter in some detail. The Commission recognized the objections which could be urged to the use of system statistics, but they were the only figures available. They were put in evidence by both groups of railroads. Statistics based upon the operations of respondents in the two territories only, could not be produced (R. 83, 105). Nor were such figures offered to be produced in the petition for rehearing filed with the Commission by the Southwestern lines (R. 105).

The use of system figures was not condemned by the Commission in the cases cited in the note on page 96 of appellants' brief. In those cases, the Commission only

stated the objections which could be urged to the use of such figures, objections that we concede exist. As a matter of fact, the Western Trunk lines, in the proceedings before the Commission, made an effort to meet this objection of the Southwestern lines by segregating the statistics pertaining to those railroads which operated only in Southwestern and Western Trunk line territories. When this was done, the Southwestern lines urged that no consideration should be given to the figures because they did not include the results of operations by carriers having two lines outside the two territories. In its second report, the Commission said with respect to this subject (R. 105):

> "The Western Trunk lines did attempt such a segregation and we used the results, as shown above, as one of the checks upon our conclusions, but the Southwestern lines objected to these figures as not sufficiently representative."

If appellants' contentions with respect to this matter are correct, the Commission could never decide a divisions case, because no record could contain the necessary proof. We submit that the Commission cannot be deprived of its statutory jurisdiction because of the physical impossibility of producing such proof as appellants claim is necessary. The *Northern Pacific Railroad Company Case*, 268 U. S. 39, is not in point. This, as we have pointed out, was a suit in which an injunction was sought and in connection with which specific, concrete, definite evidence was required and could be produced.

3. Appellants further argue that the Commission considered other matters and statistics not introduced in evidence.

Their first point is that certain statistics of the Great Northern, Northern Pacific, Western Pacific and Union Pacific were considered, although these statistics were

not in the record. A reference to the Commission's second report (R. 106) will show that this is not so. The decision of the Commission with respect to these divisions had already been made when this second report was issued. The statistics in question were, of course, not in the record, but the report of the Commission shows that they were referred to only in connection with an allegation contained in the petition for rehearing that conditions in far western territory were much less favorable than in Western Trunk line territory. The Commission's decision in this case was not based upon these figures to any extent.

It is next urged that the Commission assumed that operating conditions were more favorable in Official and Missisippi Valley territories than in Western Trunk line territories, and the Commission's report is quoted from in order to prove the allegation (R. 83). Here again a reference to the Commission's report will show that this is not the case. No statement at all was made by the Commission with respect to operating conditions in the Mississippi Valley portion of Southern territory. With respect to the Wabash, the statement of the Commission is a generality. Obviously, it had nothing to do with the decision which was reached by it. It was not a matter to which it was necessary that any weight whatsoever be given in the determination of the case.

It is next urged that the Commission considered traffic densities for 1927, which were not in evidence. This again is not correct. A stipulation with respect to the use of these statistics was made upon the oral argument before the Commission. This stipulation appears at pages 1266 and 1267 of the record, and is as follows:

"Mr. Towner: We would have been glad to put in the 1927 figures but I was advised that they were not available.

"Commissioner Meyer: We will give considera-

tion to these suggestions. For the present, please, proceed with the argument.

Commissioner Eastman: Can the parties agree that the Commission can refer to reports on file filed by the various carriers up to date instead of depending on the old records?

Mr. Towner: As far as I am concerned I am willing to make that stipulation that the annual reports of all the lines may be referred to by the Commission for such information as it wishes to get from them.

Commissioner Meyer: Do you agree to that, Mr. Outlaw?

Mr. Outlaw: It places me in an embarrassing position. Of course when you refer to these matters often use is made of them and they are used in such a manner that, without explanation, they might be susceptible of different interpretations. When you can explain the use to be made of them and what interpretation is to be made of the statements, it is a different matter. Therefore I dislike to do it but as long as the Commission asks for it I will agree to that.

Commissioner Meyer: Such reference may be made to them?

Mr. Outlaw: Under the circumstances, yes."

It will be observed from the record that at the time this stipulation was made, the discussion before the Commission related to density only. An offer had been made by the Western Trunk lines to introduce the 1927 figures, which offer was objected to by the Southwestern lines. Thereupon, the stipulation was entered into. The Commission certainly assumed that any annual reports of the carriers, containing the density figures in question, could be referred to by it. On its first report it said:

> "At the argument it was stipulated that we might refer in the decision of the case to reports on file with us which had been received since the close of the hearings."

The use of these figures by the Commission was objected to by the Southwestern lines in their petition for

rehearing, and with respect thereto the Commission said (R. 101):

> "The data referred to are incorporated in special reports now secured annually by our Bureau of Statistics. We believe that the stipulation was broad enough to cover these reports. However, this evidence was merely corroborative of conclusions drawn from other evidence which is admittedly of record, and the 1927 showing was in no way essential to our findings. Moreover, there is no allegation in the petition that these 1927 figures were inaccurate."

Counsel for the Southwestern lines, when making the stipulation before the Commission, must have felt that he was agreeing to the use of density figures by the Commission, since that was the subject under discussion, yet appellants now contend that the stipulation only referred to those annual reports of the carriers, which contain no figures on density. Such a conclusion would seem to be rather absurd. Moreover, it will be observed that counsel for the Southwestern lines was agreeing with the Commission, and the request of the Commission was that it be permitted to refer to reports on file in order to get the density figures. No matter how this point is viewed, it seems clear that the Commission was justified in making use of the figures since they were contained in annual reports on file with them.

In connection with the argument of appellants that the Commission considered evidence not in the record, the *Abilene Southern Railway Company Case, supra,* is cited. In that case the order of the Commission rested in part upon data not in the record. The court referred to the fact that reports which were not in the record were used as evidence of facts which it was deemed necessary to prove and not as a means of verifying facts of which the Commission, like a court, takes judicial notice.

Even under this ruling, and upon the argument as it

is made by appellants, there is nothing improper in anything the Commission has done. The order of the Commission was in no sense based upon a consideration of the statistics of the Western Trunk lines, upon the operating conditions in Official territory, or upon the density reports for 1927. So far as the density reports are concerned, the Commission itself has said that they were only corroborative of conclusions drawn from other evidence admittedly of record, and were not essential to its findings.

VIII.

THE ORDER OF THE COMMISSION IS SUPPORTED BY SUBSTANTIAL EVIDENCE AND THERE WAS NO IRREGULARITY IN THE PROCEEDINGS BEFORE IT AND NO ERROR WAS MADE IN THE APPLICATION OF RULES OF LAW. ITS ORDER MUST, THEREFORE, BE SUSTAINED.

The record in this case is complete in every respect. It is much more complete than the record in the *New England Divisions Case, supra.* The best available evidence on every subject was introduced by both groups of carriers. While contending that the record is incomplete and otherwise defective, appellants have been unable to specify any insufficiency in it. They have contented themselves with making the allegation. That the conclusions of the Commission are supported by substantial evidence is apparent from the discussion of that evidence contained in the two reports of the Commission.

It is also certain that there was no irregularity in the proceedings. Due notice of hearings was given all parties. Five hearings were held and unlimited opportunity was given every party to introduce any evidence it thought necessary or desirable. Nor was any error made by the Commission in the application of rules of

law. Every contention made and every argument advanced by appellants is met and answered by decisions of this court.

Under these circumstances, the order of this Commission will be sustained by this court. *Assigned Car Cases, supra; Virginian Railway Co.* v. *United States, supra; Western Chemical Co.* v. *United States,* 271 U. S. 268; *Northern Pacific Ry. Co.* v. *Department, etc., supra; Interstate Commerce Commission* v. *Illinois Central R. Co.,* 215 U. S. 452; *Interstate Commerce Commission* v. *Union Pacific R. Co.,* 222 U. S. 541; *Interstate Commerce Commission* v. *Louisville, etc. R. Co., supra.*

With minor exceptions appellants' entire argument reaches the conclusion that the Commission erred in weighing the evidence before it, and that it should have decided the case in favor of the Southwestern lines. This argument was properly urged with persistency before the Commission, but having failed there, this court will not now substitute its judgment for that exercised by the Commission in the discharge of its statutory power. We submit that the decision of the lower court should be affirmed.

Respectfully submitted,

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No. 44 and No. 45

In the Supreme Court of the United States

OCTOBER TERM, 1930

THE BEAUMONT, SOUR LAKE & WESTERN RAILWAY COMPANY ET AL., APPELLANTS,

v.

UNITED STATES, INTERSTATE COMMERCE COMMISSION, ET AL., APPELLEES

UNITED STATES AND INTERSTATE COMMERCE COMMISSION, APPELLANTS

v.

THE BEAUMONT, SOUR LAKE & WESTERN RAILWAY COMPANY ET AL., APPELLEES

BRIEF FOR INTERSTATE COMMERCE COMMISSION

E. M. REIDY,
For Interstate Commerce Commission.

DANIEL W. KNOWLTON,
Of Counsel.

OCTOBER, 1930.

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In the Supreme Court of the United States

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---

No. 45

UNITED STATES AND INTERSTATE COMMERCE COMMISSION, appellants

v.

THE BEAUMONT, SOUR LAKE & WESTERN RAILWAY Company et al., appellees

---

APPEAL AND CROSS APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF MISSOURI, WESTERN DIVISION

OPINIONS

The specially constituted District Court (Circuit Judge Gardner and District Judges Reeves and Otis) filed its written opinion on November 19,

1929 (R. 1318) which is reported in 36 Fed. (2d) 789, under the title: *The Beaumont, Sour Lake & Western Ry. Co. et al.* v. *United States.*

The reports of the Interstate Commerce Commission, hereinafter called the Commission, appear as Docket No. 15234, *In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories,* 148 I. C. C. 457; (R. 55–93) (December 10, 1928) and 156 I. C. C. 94; (June 10, 1929). (R. 93–109.)

JURISDICTION

The suit was commenced on July 22, 1929, under the Urgent Deficiencies Act of October 22, 1913 (c. 32, 38 Stat. 219; U. S. C. Title 28, Sec. 47), to annul and set aside a certain order of the Commission, dated June 10, 1929, prescribing just, reasonable, and equitable divisions of joint rates applying on traffic between points in the so-called Southwestern[1] and Western Trunk-Line[2] territories, and of rates applying on traffic between points in Southwestern territory and Eastern territory but passing through Western Trunk-Line territory.

---

[1] Southwestern territory was defined by order dated September 8, 1925, as consisting of the states of Texas, Arkansas, Oklahoma, Louisiana west of the Mississippi River, and Missouri south of the main line of the Misosuri Pacific Railroad between Kansas City and St. Louis. (R. 1173.)

[2] By the same order, Western Trunk-Line territory was defined as including the states of Iowa, Minnesota, Wisconsin, Illinois, North Dakota, South Dakota, Missouri on and north of the main line of the Missouri Pacific Railroad between Kansas City and St. Louis, and the upper peninsula of Michigan. (R. 1173.)

The final decree, denying the injunction, dismissing the petition, and upholding the validity of said order of the Commission, was entered November 27, 1929. (R. 121.) On November 29, 1929, the District Court granted a stay order, pending appeal (R. 136–8), and from this action the Government and the Commission noted a cross-appeal, which was allowed on December 23, 1929 (R. 143).

Pursuant to Rule 12 of this court, appellants on March 7, 1930, submitted a statement as to jurisdiction, and on April 28, 1930, the court found that probable jurisdiction had been shown.

QUESTION

Is the suspended order of June 10, 1929 (R. 109), which prescribes the basis for fixing divisions of joint rates applying on traffic between points in Southwestern and Western Trunk-Line territories, and of joint rates applying on traffic between points in Southwestern and Eastern territories, but passing through Western Trunk-Line territory, beyond the authority of the Commission, without evidence to support it, or arbitrary in any respect?

THE STATUTE

This proceeding was instituted by the Commission pursuant to the duties imposed upon it by Section 15 (6) of the Interstate Commerce Act, which provides:

> Whenever, after full hearing upon complaint or upon its own initiative, the Com-

mission is of opinion that the divisions of joint rates, fares, or charges, applicable to the transportation of passengers or property, are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers parties thereto (whether agreed upon by such carriers, or any of them, or otherwise established), the Commission shall by order prescribe the just, reasonable, and equitable divisions thereof to be received by the several carriers, * * *. In so prescribing and determining the divisions of joint rates, fares and charges, the Commission shall give due consideration, among other things, to the efficiency with which the carriers concerned are operated, the amount of revenue required to pay their respective operating expenses, taxes, and a fair return on their railway property held for and used in the service of transportation, and the importance to the public of the transportation services of such carriers and also whether any particular participating carrier is an originating, intermediate, or delivering line, and any other fact or circumstance which would ordinarily, without regard to the mileage haul, entitle one carrier to a greater or less proportion than another carrier of the joint rate, fare or charge.

STATEMENT

Proceedings before the Commission

Proceedings before the Commission arose out of an order entered by it, dated October 8, 1923 (R.

49), upon its own motion, instituting an investigation for the purpose of determining whether the divisions of freight rates and charges in Western and Mountain-Pacific territories are, and for the future will be, unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the various carriers made respondents in the proceeding, 52 in number. By additional orders the Commission permitted other carriers, including the St. Louis Southwestern Railway Company, to be made respondents. (R. 1174.) During the course of the hearings, an agreement was reached by the interested parties with respect to divisions of joint rates between points in Western Trunk-Line territory and points in Pacific-Coast territory. Because of this, the investigation of the Commission was limited for the time being to divisions in the aggregate north and south of Kansas City and St. Louis, Mo., and East St. Louis, Cairo, Gale, and Thebes, Ill., respectively, of joint rates between points in Southwestern and Western Trunk-Line territories, and of joint rates applying on traffic between points in Southwestern and Eastern territories, but passing through Western Trunk-Line territory. (R. 57.) These divisions are the only ones involved in the order attacked in this suit.

The Commission conducted extensive hearings in the territories mentioned, at which much testimony was submitted and other evidence in the form of exhibits introduced and briefs were filed by the respective carriers through their counsel. By

their testimony, the western trunk lines endeavored to show that they were entitled to increases in their divisions, and the southwestern lines sought to hold what they had. (148 I. C. C. 457–8.) (R. 57.) The lines referred to as the western trunk lines, 12 in number, are set forth in a footnote on page 458 of the report (R. 57–8), while the southwestern lines, 35 in number, are named on page 459 (R. 58). After the hearings mentioned, and in accordance with its established practice in such cases, an examiner of the Commission issued a proposed report recommending that the Commission find the divisions in the aggregate north and south of Kansas City and St. Louis, Mo., and East St. Louis, Cairo, Gale, and Thebes, Ill., respectively, of joint rates on freight traffic in general between points in Western Trunk-Line territory and points in the southwest, to be not unreasonable, inequitable, or otherwise unlawful. Exceptions to this report were filed by the western trunk lines and an answer to these exceptions was filed by the southwestern lines. Oral argument was then had before the entire Commission. Its decision (148 I. C. C. 457–483) (R. 55–93) was different from that proposed by its examiner, as shown by the following findings:

> After consideration of all the facts of record, therefore, we find that in the case of the joint rates applying on freight traffic via the gateways of Kansas City and St. Louis, Mo., and East St. Louis, Cairo, Gale, and Thebes, Ill., between points in the Southwest, as de-

fined in this proceeding, and points in the States of Illinois and Wisconsin, subject to the exceptions noted below, the just, reasonable and equitable divisions in the aggregate, south and north of said gateways, will for the future be determined by dividing said joint rates in proportion to assumed rates for the two hauls, the assumed rate for the distance covered by the haul south of the gateway to be the first-class rate for that distance under the present southwestern scale and the assumed rate for the distance covered by the haul north of the gateway to be 80 per cent of the first-class rate for that distance under the same scale. We also find that in the case of the joint rates applying on freight traffic via the gateways named above between points in the Southwest, as defined in this proceeding, and points in the remainder of western trunk-line territory, as defined in this proceeding, subject to the exceptions noted below, the just, reasonable and equitable divisions in the aggregate, south and north of said gateways, will for the future be determined by dividing said joint rates in proportion to assumed rates for the two hauls, the assumed rate for the distance covered by the haul south of the gateway to be the first-class rate for that distance under the present southwestern scale and the assumed rate for the distance covered by the haul north of the gateway to be 87 per cent of the first-class rate for that distance under the same scale. We further find that in the case of joint rates applying on freight traffic via the gateways

named above, between points in the Southwest, as defined in this proceeding, and points in the territory east of the Illinois-Indiana State line and on and north of the Ohio River and the line formed by the Chesapeake & Ohio, Norfolk & Western, and Virginian between Cincinnati, Ohio, and Norfolk, Va., subject to the exceptions noted below, the just, reasonable, and equitable divisions of the shares accruing to the western lines will for the future be determined by dividing said shares in proportion to assumed rates for the two hauls, the assumed rate for the distance covered by the haul south of the gateway to be the first-class rate for that distance under the present southwestern scale and the assumed rate for the distance covered by the haul of the western trunk lines north of the gateway to be 80 per cent of the first-class rate for that distance under the same scale, minus 10 cents. Where differentials are used in the construction of the joint rates, such differentials should be deducted before prorating and added to the divisions accruing to the carriers in the regions where they apply. There are excepted from the above finding divisions of joint rates to and from points in western Louisiana within the switching limits of New Orleans and also divisions of joint rates applying via Kansas City to and from points in Oklahoma on the Santa Fe, the Rock Island, and the Missouri Pacific which were included within the agreement as to trans-Missouri divisions which is described in the first part of this report.

> Instead of applying the basic prorate formulas described in the above findings to individual joint rates and routes, both territories may be divided into groups and percentages determined for the division of all joint rates between particular groups by applying the appropriate prorate formula to fair average distances between such groups and the gateways named in the findings. In view of the desirability, for purposes of simplicity and convenience, of the use of such groups in working out the readjustment of the divisions, no order will for the present be entered, but respondents will be given 60 days from the date of service of this report to agree upon an adjustment substantially in accord with the above findings. Full reports should be made to us at the end of this period, indicating what negotiations have been had in this connection and what the results have been. (R. 88–90.)

On March 8, 1929 the southwestern lines presented a petition for rehearing, reargument, and reconsideration consisting of 145 pages of argument,[3] and in addition appendices and Exhibits. On March 25, 1929, the western trunk lines, by answer duly filed, opposed the granting of the petition for rehearing. On June 10, 1929, the Commission issued a report on reconsideration, 156 I. C. C. 94

[3] The petition mentioned has not been printed in the record, but it was stipulated by all parties that it should be sent to this court as an original exhibit, to which all parties might refer in brief or argument. (R. 1219.)

(R. 93–108), in which the following statement was made:

> * * * After careful study of this petition and of the answer filed by the western trunk line respondents, we have denied rehearing and reargument, but have reopened the proceedings for reconsideration in order that our previous findings may be modified in certain particulars. The issues are so important, however, and they raise so many relatively new and difficult questions that we shall depart from our usual practice and explain, in this report, not only the reasons for the modifications, but also why rehearing and reargument have been denied. (R. 94.)

The Commission then proceeded, in its report on reconsideration, to take up individually and comment upon the more important points made by the southwestern lines, and the court is respectfully referred to the report of June 10, 1929, and also to the original report, to show how painstaking the Commission has been in considering the questions in issue. It is believed that these reports in themselves constitute a complete and effective answer to the contentions now before the court. In the report on reconsideration (R. 93) the Commission did, however, make certain modifications of its previous findings in favor of the southwestern lines. It increased from 10 cents to 15 cents the factor to be deducted from the western trunk lines' proportions when they acted as bridge carriers; and it also found that in case of traffic to and from points in

Illinois and Wisconsin or territory east of the Illinois-Indiana State line, ground exists for differentiating the traffic moving through the Kansas City gateway from that moving through the St. Louis, Cairo, Gale, and Thebes gateways, since the hauls of the western trunk lines on the latter traffic are wholly in the territory east of the Mississippi River, and for that reason changed the factor used in the rate prorate for hauls north of the latter gateways from 80 per cent of the southwestern scale to 75 per cent. On the same day, June 10, 1929, the Commission issued an order, the body of which reads as follows:

> *It is ordered,* That of the joint rates for the transportation of property in interstate or foreign commerce via the gateways of Kansas City and St. Louis, Mo., and East St. Louis, Cairo, Gale, and Thebes, Ill., between points on the lines of any of the above-listed respondents in the Southwest, as above defined, and points on the lines of any of the above-listed respondents in the States of Illinois and Wisconsin, the just, reasonable, and equitable divisions in the aggregate, south and north of said gateways, shall on and after August 1, 1929, be determined, subject to the provisos noted below, by dividing said joint rates in proportion to assumed rates for the two hauls, the assumed rate for the distance covered by the haul south of the gateway to be the first-class rate for that distance under the present southwestern scale and the assumed rates for the distance

covered by the haul north of the gateway to be 80 per cent, when the gateway is Kansas City, and 75 per cent when the gateway is St. Louis, East St. Louis, Cairo, Gale, or Thebes, of the first-class rate for that distance under the same scale;

It is further ordered, That of the joint rates for the transportation of property in interstate or foreign commerce via the gateways named in the next preceding paragraph between points on the lines of any of the above-listed respondents in the Southwest, as above defined, and points on the lines of any of the above-listed respondents in the remainder of western trunk-line territory east of the Missouri River, as such territory is above defined, eliminating the States of Illinois and Wisconsin, the just, reasonable and equitable divisions in the aggregate, south and north of said gateways, shall on and after August 1, 1929, be determined, subject to the provisos noted below, by dividing said joint rates in proportion to assumed rates for the two hauls, the assumed rate for the distance covered by the haul south of the gateway to be the first-class rate for that distance under the present southwestern scale and the assumed rate for the distance covered by the haul north of the gateway to be 87 per cent of the first-class rate for that distance under the same scale.

It is further ordered, That of the joint rates for the transportation of property in interstate or foreign commerce via the gateways named in the second preceding para-

graph between points on the lines of any of the above-listed respondents in the Southwest, as above defined, and points in the territory east of the Illinois-Indiana State line and on and north of the Ohio River and the line formed by the Chesapeake & Ohio, Norfolk & Western, and Virginian between Cincinnati, Ohio, and Norfolk, Va.; the just, reasonable, and equitable divisions in the aggregate, south and north of said gateways, of the shares of said joint rates accruing to above-listed respondents participating therein shall be determined on and after August 1, 1929, subject to the provisos noted below, by dividing such shares in proportion to assumed rates for the two hauls, the assumed rate for the distance covered by the haul south of the gateway to be the first-class rate for that distance under the present southwestern scale and the assumed rate for the distance covered by the haul of western trunk-line respondents north of the gateway to be 80 per cent, when the gateway is Kansas City, and 75 per cent, when the gateway is St. Louis, East St. Louis, Cairo, Gale, or Thebes, of the first-class rate for that distance under the same scale, minus 15 cents;

Provided, however, That where differentials are used in the construction of the joint rates, such differentials shall be deducted before prorating and added to the amounts determined by the prorating process and accruing to respondents in the regions where the differentials apply: and

Provided, further, That instead of applying the basic prorate formulas prescribed in the above-ordering paragraphs to individual joint rates and routes, both territories may be divided, if respondents so agree, into groups, and percentages determined for the division of all joint rates between particular groups by applying the appropriate prorate formula to fair average distances between such groups and the gateways named above; and that respondents for purposes of convenience and simplicity may deviate in other respects from the strict letter of the order if they so agree.

It is further ordered, That the above-listed respondents, according as they participate in the transportation, be, and they are hereby, notified and required to cease and desist, on and after August 1, 1929, and thereafter to abstain from asking, demanding, collecting, or receiving divisions of said joint rates upon other bases than those above prescribed. (R. 111)

By supplemental orders,[4] the effective date of the Commission's order of June 10, 1929, was extended to December 1, 1929.

Proceedings in the lower court

On July 22, 1929, the original petition was filed. Pursuant to leave of court, this was amended by petition filed September 17, 1929 (R. 14–49), pray-

[4] The order of July 25, 1929, corrected an error in the previous order by omitting the Texarkana & Fort Smith Ry., which had not been made a party. (R. 1219.)

ing that the Commission's order be set aside and annulled, and for "such other and further relief as to the Court may seem meet and proper" (R. 49).

The District Court, on final hearing, rendered a very full opinion (R. 1318–39), sustaining the validity of the action of the Commission in all respects. Its final decree dismissing the bill was entered on November 27, 1929 (R. 121), and thereafter on November 29, 1929, without notice and without hearing, the District Court stayed the operation of the Commission's order pending determination by this court (R. 136), conditioned upon the posting of a bond in the sum of $3,000,000 by the southwestern carriers (R. 137), to protect the revenues of the western trunk lines should the action of the Commission be finally sustained by this court. On January 22, 1930, after argument, the court refused to vacate the stay order. (R. 1313.)

ASSIGNMENT OF ERRORS

While separate errors are assigned to certain holdings of the District Court in its opinion (R. 123) the assignment of errors and the points relied upon, for the purposes of this argument, may be summarized as follows:

The order of the Commission is invalid because:

1. The Commission had no authority to deal with the carriers on a group basis, without considering the carriers, and their particular revenue needs and requirements, individually. (Assignment of Errors 2, 5, 7, 8, 12, and 20.)

2. The Commission's investigation into the reasonableness of the divisions applying between points in Southwestern and Western Trunk-Line territories, did not embrace *all* of the carriers operating, or cover the joint rates on *all* of the traffic moving between points, in the territories mentioned. (Assignment of Errors 6, 9, and 11.)

3. After the Commission found the southwestern lines were entitled to from 17 to 20 per cent greater revenue per ton-mile than the western trunk lines, it prescribed divisions yielding the southwestern lines only 9 per cent more revenue. (Assignment of Errors 3.)

4. The Commission prescribed a formula for the division of the joint rates in question which had never been brought to appellants' attention, and consequently, as to said formula, appellants had been denied due process of law. (Assignment of Errors 4 and 21.)

5. It is based on the relative financial condition of the carriers. (Assignment of Errors 13.)

6. It is confiscatory. (Assignment of Errors 15.)

7. There were certain irregularities in the proceedings before the Commission in that the Commission

(a) made findings and entered its order upon assumptions of fact not supported by evidence and considered matters not introduced in evidence. (Assignment of Errors 16.)

8. The cross appeal of the Commission and the Government is based upon an Assignment of Error which reads as follows:

The District Court erred in restraining enforcement of the Commission's orders of June 10, 1929, July 25, 1929, and September 24, 1929, pending appeal to and determination of the appeal by the Supreme Court of the United States. (R. 142.)

SUMMARY OF ARGUMENT

1. Most of the contentions advanced here have been disposed of adversely to appellants' contentions by the decisions of this court in *New England Divisions*, 261 U. S. 184, and in *United States et al.* v. *Abilene & So. Ry. Co.*, 265 U. S. 274. In *New England Divisions, supra*, at p. 197, this court held that the Commission has authority to fix divisions in a comprehensive manner and without considering the carriers individually. In *United States* v. *Abilene & So. Ry. Co., supra* (hereafter referred to as the *Orient Divisions case*), this court held, and in doing so referred to *New England Divisions*, that it is not necessary to have before the Commission all of the carriers who participate in the joint rates. (Id. 282–3.)

2. The Commission's order is not based on the relative financial needs of the carriers; in any event the *Orient Divisions case* (p. 284–5) settles that the Commission may, in the public interest, take into consideration the financial needs of a weaker road.

3. The contention that the order is void because the Commission found that the southwestern lines

were entitled to from 17 to 20 per cent greater revenue per ton per mile than the western trunk lines and then prescribed divisions yielding the southwestern lines only 9 per cent more revenue, is based upon a misapprehension of what the Commission actually did. The Commission found, as shown at p. 475 of its first report (R. 83), that the cost of service, including a fair return on investment, was about 20 per cent greater in the southwest than in the western trunk-line group, based on averages of 1923 and 1924 operations, and about 17 per cent greater based on 1924 operations. But "cost of service" is by no means the equivalent of "revenue per ton per mile." The average haul of the southwestern lines is a little more than 50 per cent greater than the average haul of the western trunk lines, and *New England Divisions*, 126 I. C. C. 579, 667, recognizes that a mileage prorate is an unsatisfactory test when the hauls are short on one side and long on the other.

4. There is no merit in the appellants' contention that the order is void because confiscatory. A prescription of a basis of dividing joint rates in the future is in no sense a positive limitation upon revenue; it in no way prevents the raising of those rates, and the consequent increase of revenue, if such an increase can be justified.

5. It is contended that the order is void because the first knowledge appellants had of the basis of divisions ordered by the Commission was when its

report was served; consequently appellants had no opportunity to meet said basis by introducing testimony to show its practical workings. The appellants availed themselves of the opportunity to present all relevant evidence to the Commission, and in fact did so. The Commission's duty under the Act was to reach a conclusion as to what would constitute just, reasonable, and equitable divisions. There is no support in law for the theory that the Commission can not reach final conclusions without first reaching tentative conclusions, which is in fact the contention now being discussed.

6. There were no irregularities in the proceedings before the Commission.

(a) The contentions that the Commission went outside the record and referred to evidence not properly before it can not be sustained. By stipulation made between counsel for the parties (R. 1267) it was agreed that the Commission could refer to annual reports and other reports on file with it. Further, the significance shown in the reports mentioned were corroborative merely of conclusions therein from reports for earlier years, admittedly in the record, and were in no way essential to the Commission's findings. Appellants had objected to the Commission's using figures for what they considered "remote years" (R. 37), and now object to the Commission using figures for later years.

7. The Supreme Court should sustain the cross appeal of the Government and the Commission

because it was an improvident exercise of its discretion for the lower court, in view of the very full opinion of that court sustaining the validity of the Commission's action in all respects, to stay the operation of the Commission's order pending appeal to, and determination by, this court. The requirement of a bond in such a case is not sufficient protection to the public. *Virginian Ry. Co.* v. *United States,* 272 U. S. 658.

ARGUMENT

1. The Commission may fix divisions in a comprehensive manner and without dealing with each carrier independently of all the rest

This proceeding was instituted by the Commission pursuant to the duties imposed upon it by Section 15 (6) of the Interstate Commerce Act. The leading decision of this court construing the authority of the Commission is *New England Divisions case,* 261 U. S. 184. It is respectfully submitted that the decision of the court in that case disposes, to a large extent, of many of the contentions advanced by appellants here. There the Commission directed that the divisions of the several New England railroads in their joint through freight rates with carriers operating west of the Hudson River be increased about 15 per cent, such increases in rates operating to reduce the aggregate amounts receivable by the carriers operating west of the Hudson River. (66 I. C. C. 196.) As stated by this court (p. 187) the Commission's order in the *New England Divisions case* was to

continue in force only until the further order of the Commission. The order herein is similarly limited. (R. 113; 115.) In that case, it was asserted, as it is asserted here, that the order is void because based upon the theory that, under Section 15 (6), the Commission has authority to fix divisions as between groups of carriers without considering the carriers individually, and that Congress had not conferred such authority (p. 196). Upon this point the court said:

> Obviously, Congress intended that a method should be pursued by which the task, which it imposed upon the Commission, could be performed. The number of carriers which might be affected by an order of the Commission, if the power granted were to be exercised fully, might far exceed six hundred; the number of rates involved, many millions. The weak roads were many. The need to be met was urgent. To require specific evidence, and separate adjudication, in respect to each division of each rate of each carrier, would be tantamount to denying the possibility of granting relief. We must assume that Congress knew this; and that it knew also that the Commission had been confronted with similar situations in the past and how it had dealt with them.
>
> For many years before the enactment of Transportation Act, 1920, it had been necessary, from time to time, to adjudicate comprehensively upon substantially all rates in a large territory. When such rate changes

> were applied for, the Commission made them by a single order; and, in large part, on evidence deemed typical of the whole rate structure. * * * (Id. 197.)

That the Commission was justified under the law in making an order such as it made here is apparent from the decision quoted; further both groups of carriers here dealt with the case on that basis: The lower court, concerning this, said:

> It is next contended that the order is void because it is based on averages, and does not take into consideration each individual carrier either on the basis of typical evidence or specific evidence, and in this connection it is urged that to make a divisional order valid the Commission must consider whether the divisions are just and reasonable from the standpoint of each carrier which participates in the joint rate. We think this contention is completely answered by the Supreme Court in *New England Divisions Case*, 261 U. S. 184.
>
> It appears from the record that the hearings were conducted on the basis of a group proposition. No attempt was made to have the individual carriers treated separately. All witnesses purported to represent all of the Southwest carrier respondents. One of the witnesses who was in fact connected with the traffic department of the Santa Fe Railway says: "The Southwestern Lines, believing a history in so far as it is available, of the class rates * * * would be helpful in reaching a decision in this proceeding, sub-

mit the following: * * * ." Another witness connected with the traffic department of the Missouri Pacific testified: "The Southwestern Lines found it necessary to assign the testimony with respect to divisions to individual carriers, depending upon the gateways or states of the Southwest in which their line is more vitally interested. * * * My testimony will therefore include all of the interested Southwestern Lines in connection with the divisions via the several gateways and Southwestern states previously mentioned."

These are indicative of the manner in which the petitioners presented the case before the Commission. At no time during the proceedings before the Commission was any claim made that the Commission was without authority to deal with the case on a group basis. In fact, this question was not even presented to the Commission in the petition for rehearing. The suggestion that the petition filed asking the Commission to make additional Southwestern carriers parties was tantamount to an objection to the consideration of this matter on the group basis is, we think, without force. There is no claim in this petition that the Commission was without jurisdiction because it failed to name additional carriers, and the basis for the petition was that unless all the roads were made respondents, those which were respondents would have difficulty with their connections in arranging subdivisions of revenue in the event of an order by the Com-

> mission changing the divisions. Until the present action was commenced the petitioners did not indicate in any way that they objected to the handling of the case on a group basis. [The court then quoted from this court's decision in the *New England Divisions Case.*] (R. 1326–27.)

It continued:

> The Commission's order does not preclude independent Southwestern Lines from hereafter showing to the Commission any injustice that may result from its application. By its terms it is to remain in effect until the further order of the Commission. We are warranted in assuming that the order in this case is based upon evidence which the Commission assumed was typical in character and ample in quantity to justify the finding made as to each division of each rate of every carrier. It is well established that individual rates or divisions which are typical of all, afford a proper basis for a finding as to any one. The record in this case shows every essential mentioned by the Supreme Court in *New England Divisions Cases,* 261 U. S. 184, *Orient Divisions Case,* 265 U. S. 274, and *Brimstone Divisions Case,* 276 U. S. 104. (R. 1328)

2. The contention that the order of the Commission is based on the relative financial needs of the several carriers, and hence void, is without merit

In *New England Divisions case, supra,* this court stated (p. 189) that the contention was made that the order was void, because its purpose was not to

establish divisions just, reasonable and equitable, as between connecting carriers, but, in the public interest, to relieve the financial needs of the New England lines, so as to keep them in effective operation. A somewhat similar contention is made by appellants in assignment 13. (R. 129.)

This court pointed out (pp. 189–192) the fact that the Transportation Act, 1920, introduced into the federal legislation a new railroad policy, and stated that the provision concerning divisions was an integral party of the machinery for distributing the funds expected to be raised by the new rate-fixing sections. In disposing of the contention advanced in the *New England Divisions case,* the court stated:

> * * * The argument is that the division of a joint rate is essentially a partition of property; that the rate must be divided on the basis of the services rendered by the several carriers; that there is no difference between taking part of one's just share of a joint rate and taking from a carrier part of the cash in its treasury; and, thus, that apportionment according to needs is a taking of property without due process. But the argument begs the question. What is its just share?—It is the amount properly apportioned out of the joint rate. That amount is to be determined, not by an agreement of the parties or by mileage. It is to be fixed by the Commission; fixed at what that board finds to be just, reasonable and equitable. Cost of the service is one of the

> elements in rate making. It may be just to give the prosperous carrier a smaller proportion of the increased rate than of the original rate. Whether the rate is reasonable may depend largely upon the disposition which is to be made of the revenues derived therefrom. (Id. 195.)

This statement is quoted only to indicate the broad power and duty of the Commission under the statutory provisions in question, because in the present case, while evidence as to the relative financial conditions of the carriers was received and given consideration, it was not, as a reading of the reports of the Commission will indicate, a factor of importance in the conclusions finally reached.

But if the fact were otherwise it would not be beyond the Commission's authority. In the *Orient Divisions Case,* this court said:

> It is settled that in determining what the divisions should be, the Commission may, in the public interest, take into consideration the financial needs of a weaker road; and that it may be given a division larger than justice merely as between the parties would suggest "in order to maintain it in effective operation as part of an adequate transportation system," provided the share left to its connections is "adequate to avoid a confiscatory result." *Dayton-Goose Creek Ry. Co.* v. *United States,* 263 U. S. 456, 477; *New England Divisions Case,* 261 U. S. 184, 194, 195. (Id. 284–285.)

Allegation is also made (R. 124–5) that the action of the Commission is arbitrary and void in that it attempts to transfer revenues from less prosperous Southwestern lines to more prosperous Western lines. A reading of the Commission's first report in the *New England Divisions Case,* 62 I. C. C. 513, will show the same condition existed in that case, in that certain of the roads operating west of the Hudson River were not making as much money as certain of the New England roads. (P. 521 of 62 I. C. C.) (See also report of the Commission on reargument, 66 I. C. C. 196, based on the same record as its first decision, and dissent of Commissioner Hall, p. 209.) This court sustained the Commission's order. By Section 15 (6) the Commission is authorized to fix the just, reasonable, and equitable divisions of joint rates, and it was this power that it here exercised after full hearing of all the interested parties and a thorough consideration of the evidence submitted.

In upholding the order of the Commission, the lower court, in its opinion, said, on this point:

> A general charge that the proceeding was so arbitrary and contrary to the purposes of the Interstate Commerce Act as to be a denial of due process of law is argued by counsel, and in support of this contention it is urged that the order transfers revenue from less prosperous to more prosperous carriers. This has already been discussed and we think is controlled by the *New England Divisions case.* The Western Trunk Line

carriers were found by the Commission to be in worse financial condition than the Southwestern Lines, and this finding is not challenged. The order only incidentally affects the revenues of the companies involved and was not entered for the primary purpose of assisting one group of carriers over another group of carriers, but to correct an inequitable and unreasonable division found to exist. Whether or not this order was ill-advised, or whether it will produce a systematic basis of divisions is not for this Court to determine, but was a matter committed by the statute to the judgment of the Commission. In our opinion, the order can not properly be held to be arbitrary, but is based upon evidence upon which the judgment of the Commission might properly be exercised. (R. 1331.)

3. The claim that the order is void because, after finding that the southwestern lines were entitled to from 17 to 20 per cent greater revenue per ton per mile than the western trunk lines, the Commission prescribed divisions yielding the southwestern lines only 9 per cent greater revenue, is without merit and based on a misapprehension of what the Commission did

Decisions of this court abundantly show that it is not its duty under the law to review the Commission's findings of fact, but, aside from this, it will be well to analyze the claim that the Commission found that the southwestern lines are entitled to an average of 17 to 20 per cent greater revenue per ton per mile of freight transported than the western trunk lines and then prescribed divisions which

yielded the southwestern lines only 9 per cent greater revenue. (R. 32.)

The "9 per cent" mentioned in this connection is arrived at from appellants' traffic test of September, 1928, which was introduced in evidence as Exhibit 10 before the lower court. (R. 1226.) Whether or not the Commission's order was correctly applied in making this test could only be determined by a careful examintion of the underlying work sheets. For present purposes, however, it will be assumed that it was correctly applied.

The claim that the Commission found that the "Southwestern respondents are entitled to an average of 17 or 20 per cent greater revenue per ton per mile of freight transported than are the Western Trunk Line respondents" is not correct. What the Commission actually found, on page 475 of its first report, was that the—

> cost of service, including a fair return on investment, was somewhere in the neighborhood of 20 per cent greater in the Southwest than in the western trunk-line group, based on averages of 1923 and 1924 operations, and somewhere in the neighborhood of 17 per cent greater based on 1924 operations. (R. 83.)

"Cost of service" is by no means the equivalent of "revenue per ton per mile." It is a universal rule that revenue per ton per mile, even upon a single commodity over the same railroad, varies with the length of haul, and for very good reasons.

Cost of service is made up of two elements. Cost of terminal operations is one element, and it is constant, regardless of the length of haul. The other element is the cost of the line haul, which varies with distance. The combination of these two elements, one constant and the other variable, of course produces a total cost per ton per mile, which likewise varies with distance, but not in direct ratio.

Exhibit 10 shows that in September, 1928, the traffic of respondent roads affected by the Commission's order amounted to 462,467 tons and that the total ton-miles were 145,081,066 for the western trunk lines and 218,264,036 for the southwestern lines. (R. 1226.) Dividing tons into ton-miles, the average haul was 313.7 miles for the former and 471.9 miles for the latter. The average haul of the southwestern lines was, therefore, a little more than 50 per cent greater than the average haul of the western trunk lines. Assuming the same cost of service in both territories, the cost per ton per mile on this particular traffic for the southwestern lines would clearly be materially less than the corresponding cost for the western trunk lines, because of the longer haul over which to spread the constant terminal cost. This is elemental in the consideration of railroad cost of service. Under the circumstances, divisions based on relative costs of service which would yield the southwestern lines on this traffic the same revenue per ton per mile for their longer hauls as the western trunk lines receive for

their shorter hauls, would indicate materially higher cost of service in the Southwest than in Western Trunk-Line Territory. And following out this line of reasoning, divisions which would yield the southwestern lines on this traffic 9 per cent more revenue per ton per mile than the western trunk lines, the result shown for the Commission's divisions by appellants' own traffic test, would reflect a cost of service in the Southwest higher than that in Western Trunk-Line Territory by much more than 9 per cent.

This general subject was considered by the Commission in the first report in this case, at page 463, as follows:

> Stated differently, under the existing divisional bases and judged by a mileage prorate, a mile in southwestern territory is worth on the average from 129 to 135 per cent of a mile in western trunk-line territory. Nor does this fully indicate the relative advantage of the southwestern lines, for a mileage prorate is by no means a perfect method of dividing joint rates, even where transportation and other conditions do not differ materially. It results in the same ton-mile revenue for each participating carrier, regardless of the length of haul and of the principle that, other things being equal, ton-mile yields should decrease as distance increases. *New England Divisions,* 126 I. C. C. 579, 667. It is for this reason that rate prorates or block-mileage plans are often

> used in preference or that provision is made for minimum divisions of not less than 25 per cent, or some similar percentage. (R. 64.)

The discussion of the same subject in *New England Divisions,* cited in the above quotation, was as follows:

> A mileage prorate is an unsatisfactory test when the hauls are short on one side and long on the other. Throughout this proceeding both complainants and defendants have seemed to lose sight of the significance of relative lengths of haul, especially when referring to ton-mile yields. Such yields are continually compared in the briefs with no mention of the lengths of haul, without which the comparisons are meaningless. An apt illustration is afforded by the earnings of the Central Vermont on this bituminous traffic. Because its ton-mile yields are very largely in excess of those of defendants, and because its receipts are a much larger percentage of the total revenue than its haul is of the total distance, it seems to be assumed by defendants that its divisions must be generous. As a matter of fact a terminal line with so short an average haul as the Central Vermont could not sustain the burden of the terminal expense without relatively high ton-mile earnings. This is universally recognized in the construction of rate scales and in the principle, followed in those scales, that ton-mile yields should decrease with distance. There is no good reason why the same principle should not apply

to divisions, and it is because of this fact that a rate prorate, when the rates are fairly comparable, affords a valuable test of divisions.

This point was fully covered in the opinion of the lower court, from which we quote:

> It is next urged that the Commission's order should be set aside because the amount of revenue which will accrue to petitioners will not be as much as 17 to 20 per cent greater revenue per ton per mile than the revenue accruing to the Western Trunk Lines, but will be not more than 9 per cent greater, whereas the Commission found that in 1924 it cost about 15% more per ton mile to transport freight in the southwest than in the Western Trunk Line territory. Evidence other than that offered before the Commission was offered and received in this Court in support of this contention.
>
> In support of this contention counsel have stressed one or two statements found in the opinion of the Commission. Attention is called to the fact that the Commission has determined the relative cost of service as a vital thing to be ascertained, and that the cost is approximated within certain limits so far as ascertainable. These two elements are then selected as the test and the only test for the basis of the order and it is contended that because the order does not in practical operation produce with mathematical accuracy the results anticipated by the Commission it should be set aside. It should be observed in this connection that in this attack all other factors or elements are not only

subordinated but eliminated and disregarded. While the relative cost of service in the two groups was a vital thing to be ascertained, it does not follow that the solution of the Commission's problem was dependent entirely, and only on this determination. Vital as this factor may have been, it does not follow that the result of the Commission's order should, in disregard of every other factor, mathematically produce a result which reflects the difference in the cost of service in the two groups The Commission itself, on petition for rehearing, considered this question and in the second report it is said: "There are other matters to be considered such as the efficiency with which the carriers concerned are operated and the importance to the public of the transportation service of such carriers, but all of these we took into consideration in summarizing the pertinent evidence. * * * We realized that the statistics were open to criticism in certain respects and resolved doubts in favor of the carriers whose revenues would be reduced by our finding, i. e., the Southwestern lines. The final result was not the product of statistics alone but was reached in the exercise of judgment after considering all of the pertinent evidence." The finding of the Commission as to the relative cost of service was simply an approximation and purported only to be such, and the Commission's report does not indicate that the difference in the cost of service should be reflected in the distribution of revenue.

Counsel contend that the Commission found that "The Southwestern respondents are entitled to an average of 17 or 20 per cent greater revenue per ton mile of freight transported than are the Western Trunk Line respondents." This is not warranted by the actual finding of the Commission which is that "Cost of service, including a fair return on investment, was somewhere in the neighborhood of 20 per cent greater in the Southwest than in the Western Trunk line group, based on averages of 1923–1924 operations, and somewhere in the neighborhood of 17 per cent greater based on 1924 operations."

Cost of service is not analogous to revenue per ton mile. Revenue per ton mile varies of necessity with the length of haul, and the cost of service is made up of the cost of terminal operations, which is substantially the same regardless of the length of haul and the cost of line haul which varies materially with the length of haul. The combination of these factors produces the cost per ton mile, which varies with the length of haul, but not in direct ratio. Counsel are relying upon the so-called September, 1928, test. In passing it may be observed that this test may or may not have been typical. The time covered was confessedly short and there are many factors going into the compilation of the exhibit which purports to reflect the result of the operations for the period mentioned.

It is, however, observed that the average length of haul of the Southwestern lines, as reflected by this test, was a little more than 50 per cent greater than the average length of haul on the Western lines. If we may assume the same cost of service in both territories, still the cost per ton mile on traffic for the Southwestern lines would be materially less than the corresponding cost for the Western Trunk lines for the reason that there is a longer average haul in the Southwestern territory. Divisions based on cost of service would therefore yield the Southwestern lines the same revenue per ton mile for the longer hauls as the Western Trunk lines received for their shorter hauls, and hence, divisions which would yield the Southwestern lines on this traffic 9 per cent more revenue per ton mile than the Western Trunk lines, the result claimed under the test would reflect a cost of service in the Southwest higher than that in the Western Trunk line territory by much more than 9 per cent.

It seems clear that a formula using the cost per ton mile would, under the circumstances, produce a result unfair to the Western Trunk lines because of the shorter average haul on these lines.

It is apparent that the Commission had this matter in mind. In its report it is said, " Stated differently, under the existing divisional bases and judged by a mileage prorate, a mile in southwestern territory is worth on the average from 129 to 135 per cent

of a mile in Western Trunk Line territory. Nor does this fully indicate the relative advantage of the southwestern lines, for a mileage prorate is *by no means a perfect method of dividing joint rates,* even where transportation and other conditions do not differ materially. It results in the same ton-mile revenue for each participating carrier, *regardless of the length of haul and of the principle that, other things being equal, ton-mile yields should decrease as distance increases.*

Bearing in mind that the showing reflecting the test of September, 1928, is prepared on the ton-mile basis, it would seem pertinent to observe what the Interstate Commerce Commission of the United States says on this question in *New England Divisions case,* 126 I. C. C. 579, 667:

"A mileage prorate is an unsatisfactory test when the hauls are short on one side and long on the other. Throughout this proceeding both complainants and defendants have seemed to lose sight of the significance of relative lengths of haul, especially when referring to ton-mile yields. Such yields are continually compared in the briefs with no mention of the lengths of haul, without which the comparisons are meaningless."

The Commission was not permitted to base its decision as to divisions of joint revenue upon any one thing, either cost of service, necessity, density of traffic, or any other single fact or element. The statutes required the Commission to give due consider-

> ation to all factors, and the Commission's report shows affirmatively that it has done so in this case. As was said by the Supreme Court in the *Louisville & Nashville Case,* 227 U. S. 188, "For the validity of the order does not necessarily depend upon the correctness of each of these findings, so that the breaking of one or many links by disproof would destroy the chain upon which the order depended."
>
> We are clear that the validity of the order cannot be made to depend alone upon a division of revenue which would exactly reflect the approximate division in cost of service. (R. 1322–25.)

4. The order is not void as confiscatory

With reference to appellants' contention that the divisions which were prescribed are confiscatory, it is sufficient to say that a prescription of a basis of dividing joint rates in the future is in no sense a positive limitation upon revenue. It provides that existing joint rates, whatever they may be, shall be divided in certain proportions. It in no way prevents the raising of those rates, and hence the increasing of revenue, if such an increase can be justified. Not only that, but Section 15a of the Interstate Commerce Act imposes upon the Commission itself the following duty:

> In the exercise of its power to prescribe just and reasonable rates the Commission shall initiate, modify, establish or adjust such rates so that carriers as a whole (or as a whole in each of such rate groups or terri-

> tories as the Commission may from time to time designate) will, under honest, efficient, and economical management and reasonable expenditures for maintenance of way, structures, and equipment earn an aggregate annual net railway operating income equal, as nearly as may be, to a fair return upon the aggregate value of the railway property of such carriers held for and used in the service of transportation.

Manifestly the order with respect to divisions in this case in no way hinders or impedes the Commission in the performance of its duty under this provision of Section 15a.

In *Louisville & Nashville R. Co.* v. *Garrett,* 231 U. S. 298, there was an allegation made, similar to the one made here, that rates ordered established by the Kentucky Railroad Commission would operate to confiscate the carrier's property. In overruling it, this court said:

> Without passing upon the general propositions advanced in argument, it suffices to say that we are of the opinion that the bill as amended wholly failed to make a case entitling the appellant to the relief sought. Apart from the merely general averments, it is alleged that the rates fixed by the order would cause an annual loss in revenue on intrastate freight of at least $15,600, and also that, in consequence of the effect on interstate rates, there would be an additional annual loss of not less than $3,000; further, that if the carrier were compelled to put in

> similar rates to the thirty-two other distillery stations, there would be a loss of $54,000 a year on shipments to those places; and that there would be other losses to an amount not specified, on shipments to consignees other than distillers.
>
> But it may be supposed that, other conditions being the same, a reduction in rates found to be excessive will cause a loss in revenue; and the question is not simply as to the amount of reduction but whether the rates as fixed would allow a fair return. The bill does not show the value of the property employed, the expenses of operation, or the return which would be permitted under the rates prescribed. (Id. 315.)

This point was presented to the lower court and overruled by it in the following language:

> There is a suggestion that the order of the Commission is confiscatory as to the petitioners. This question does not seem to have been urged before the Commission, and the purpose of the order is not to take from one set of carriers revenue and transfer it upon another. The most that can be claimed as to the evidence on this point is that it shows that certain of the railroads earn less than five and three-quarters per cent upon their total investment. This is not a sufficient basis for assailing the order in question, *N. P. R. R. Co.* v. *Dept. of Public Works,* 268 U. S. 39. There is no showing that the reduction in their share of revenue arising from traffic moving between

the Western Trunk Line territory and the Southwestern territory will operate in any way to confiscate petitioner's property. (R. 1332.)

5. The Commission was not under the duty of advising appellants in advance of its order of the basis of divisions proposed by it

It is alleged by appellants (R. 132) that the first knowledge they had of the basis of divisions ordered by the Commission was when its report was served, and that consequently they had no opportunity to meet the said basis by the introduction of testimony to show its practical workings or otherwise; hence the order is void.

Appellants, as well as the western trunk-line respondents, had full opportunity to present to the Commission all of the data and other evidence that they deemed pertinent in determining the just, reasonable, and equitable divisions of the joint rates in question. They availed themselves of this opportunity, and a voluminous record was built up for the consideration of the Commission. Both sides stated their conclusions of record as to what the divisions should be. It was the duty of the Commission not to choose between these conclusions but to reach its own conclusions upon the evidence submitted.

That this in fact is what the Commission did will be shown by an examination of its two reports. In its second report the Commission said:

> * * * It was not our purpose to compromise between the claims of the two groups of carriers, but to establish a basis of divisions in line with the evidence, whatever the revenue results might prove to be. It is true that we thought we were giving the western trunk lines less than they sought, and the test indicates that this supposition was correct; but this was a wholly incidental result. That the new basis might in some instances give more than a mileage prorate was recognized. * * * (R. 94–5.)

The divisions in question were in urgent need of revision. In its first report, 148 I. C. C. 457, at p. 459 (R. 58), the Commission said:

> Complainants and defendants alike admit that the divisions in question conform to no systematic and consistent plan, but they are not particularly interested in the revision of individual divisions. What complainants seek and defendants oppose is primarily a finding that the former are entitled to substantially increased revenue in the aggregate out of the traffic under consideration, and a fixation of divisions appropriate to that end.
>
> The present divisional bases are so numerous and vary so widely that an attempt to describe them would unduly extend this report and serve no useful purpose. They are shown of record in great detail. There are so-called merchandise divisions, applying on traffic in general, and various special divisions for a number of commodities, of which lumber and oil are by far the most impor-

tant. By oil we mean petroleum and its products. Most of the bases were established during the period from 1892 to 1896, inclusive, but the divisions on oil from Oklahoma via Kansas City are the result of arbitration as late as 1916. The bases generally apply between large groups of points. Just how they were arrived at is not disclosed and probably is not now known. No doubt they were the result of bargain and trade and plainly they are not definitely related to any of the criteria which we must consider in determining just, reasonable, and equitable divisions.

And at p. 464, the following appears:

As has been stated, most of the present divisional bases were established more than 30 years ago. Assuming that they were just and reasonable when first established, complainants undertake to show that relative conditions have since that time changed very materially, to the great advantage of defendants. The latter, on the other hand, undertake to show that conditions are still much less favorable in the Southwest than in western trunk-line territory, and that this difference amply justifies the divisions which they now receive.

The proposed report of the examiner contained the following statement, to which no exceptions were filed:

During the last 30 years both western trunk-line territory and the Southwest have enjoyed a substantial increase in population, but the increase in the Southwest has been

> somewhat greater than in western trunk-line territory. Railroad mileage also has substantially increased in both territories, but the increase in the Southwest has been particularly pronounced. As an agricultural region the Southwest has had a growth that has far surpassed that of western trunk-line territory. The development of the oil business in the Southwest is of outstanding importance and has no counterpart in western trunk-line territory. Industrial growth, however, has been of less consequence in the Southwest than in western trunk-line territory. These changed conditions have operated to change materially the relative positions of the two groups of carriers to the advantage of those serving the Southwest. (R. 65–6.)

The theory of this contention seems to be that the Commission could not lawfully reach final conclusions without first reaching tentative conclusions and reopening the case for further hearing. No support in law for this theory has been or can be given. If it were sound, it would apply in rate cases as well as division cases and would be wholly destructive of orderly and expeditious procedure before the Commission. Appellants not only had full opportunity in the first instance to present to the Commission all pertinent evidence upon the matters at issue, but after the decision they had opportunity to present a petition for rehearing or reconsideration together with the reasons therefor. Such a petition was presented and, as the report

on reconsideration shows, it was considered with the utmost care by the Commission and led to certain modifications of its original conclusions.

The fact that all the contentions advanced by appellants in their petition for reconsideration were not adopted by the Commission is not a reason for holding invalid its order. As said by the Supreme Court in the *Virginian Ry. Case*, 272 U. S. 658, 668:

> * * * The argument urged in this connection is appropriate for consideration by the Commission, and has presumably been duly considered by it. The fact that it has not proved persuasive affords no basis for the contention that the Commission's action in making the order was arbitrary, or otherwise illegal.

The Commission has explained in its report that it used the Southwestern scale merely as a mechanism for dividing the joint rates in the proportions which it found justified by the facts of record, and why it deemed this scale most appropriate for that purpose. The Commission said:

> Incidentally it is suggested in the petition that a prorate based on first-class rates can not appropriately be used for traffic the bulk of which does not move on class rates but largely on commodity rates. As has already been explained, our rate-prorate formula was adopted as a mechanism for dividing the joint rates in the proportions which we found justified by the facts of record. In our opinion it is an appropriate mechanism

> for that purpose. The southwestern scale now forms the basis within the Southwest and also interterritorially, not only for class rates but also for many commodity rates. The proceeding has to do with the divisions in the aggregate north and south of the gateways between the two groups of carriers. It is impracticable to deal with such aggregate divisions except upon the basis of average conditions, and the case was so tried by both groups. No carrier sought special treatment for itself, nor was any effort made to show that special division bases are required by the transportation conditions surrounding particular kinds of traffic. (R. 98.)

The lower court said, in this connection:

> The decision was not bottomed upon the southwest scale, but it is the contention of the petitioners that the Commission had no authority to use the scale even as a mechanical device or method for dividing the rates in the proportion warranted by the facts, without first notifying the Southwestern Lines of their intention so to do. This suggestion is entirely without merit. (R. 1333)

6. There were no irregularities in the proceedings before the Commission

(*a*) In the *Orient Divisions Case, supra,* this court annulled an order of the Commission and condemned the use of Annual Reports which the Commission had considered in evidence, but which had not been introduced, saying:

> * * * The parts of the annual reports in question were used as evidence of facts which it was deemed necessary to prove, not as a means of verifying facts of which the Commission, like a court, takes judicial notice. (Id. 287.)

In Assignment of Errors 16 (R. 130–1) appellants are here attempting to bring the action of the Commission in this case within the condemnation of the *Orient Case.* We believe the attempt should fail. In the *Orient Case,* this court said:

> The objection to the use of the data contained in the annual reports is not lack of authenticity or untrustworthiness. It is that the carriers were left without notice of the evidence with which they were, in fact, confronted, as later disclosed by the finding made. The requirement that in an adversary proceeding specific reference be made, is essential to the preservation of the substantial rights of the parties. (Id. 289.)

One subdivision of this Assignment (R. 130) alleges that the first-class southwestern scale, prescribed in *Consolidated Southwestern cases,* 123 I. C. C. 203, was not introduced in evidence. The Commission could, of course, take cognizance of a scale of rates prescribed by it in another case, and it is difficult to see how any rights of appellants were prejudiced thereby, as all of them were parties in the *Consolidated Southwestern cases* and have established and put in force the rates found reasonable by the Commission in that case.

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On page 97 of the report on reconsideration the Commission said:

> Incidentally it is suggested in the petition that in the use of our rate prorate formula of assumed rates in western trunk-line territory we went outside of the record in disregard of *U. S.* v. *Abilene & So. Ry. Co.*, 265 U. S. 274, inasmuch as these assumed rates were not introduced in evidence. This suggestion carries the doctrine of the case cited to absurd lengths. The southwestern scale was in evidence, and the assumed scales were percentages thereof used merely as parts of the mechanism for dividing the joint rates in the proportions warranted by the facts of record. (R. 97.)

The statement in the passage quoted, to the effect that the "southwestern scale was in evidence," was not strictly accurate. In substance, however, it reflected the situation. In the examiner's proposed report (R. 1185) the scale prescribed in the *Consolidated Southwestern cases* was set forth in some detail (R. 1195). Not only was no exception taken to the proposed report by the southwestern lines on that account, but the fact that this scale was so set forth was mentioned in oral argument by counsel for those lines without criticism, express or implied. (R. 1287.) The transcript of the oral argument before the Commission is in the record. (R. 1247.) But even if this were not the situation, it is submitted that the Commission may properly and lawfully take cognizance in its decisions of rate scales which it has itself prescribed

in other cases and which are in effect as a result of its orders. And, as indicated above, this is particularly true where the same carriers are or were parties in both proceedings.

Further, as explained by Witness Reed, representing the southwestern lines, in the proceedings before the Commission:

> The basic scale used in the Southwest is the Memphis-Southwestern scale 55 I. C. C. 515 and applies between points in Southern Missouri, Arkansas and Louisiana west of the Mississippi River. (R. 789.)

The scale prescribed by the Commission in 1927 in the *Consolidated Southwestern Cases* was but a modification and extension of the scale introduced by the witness last mentioned.

The claim made in subdivision (c) of Assignment 16 (R. 130) that the Commission did not have before it evidence showing the cost of operation, taxes, etc., on respondents' lines confined to that portion of Western Trunk-Line Territory involved in the divisions proceeding, has been clearly answered by the lower court's decision herein, from which we quote:

> It is next urged that the Commission did not have before it evidence showing the cost of operation on respondents' lines confined to the Western Trunk Line territory. This argument is not based upon the assumption that the Commission went outside of the record, but that the evidence in the record did not justify the conclusion reached by

the Commission. The statistics presented by both groups of carriers were system figures which includes the investment and results of operation upon these lines outside of those territories. This was unavoidable and a segregation was found to be impracticable. The point is referred to by the Commission in its second report in the following language:

"Reverting to the criticisms in the petition, we were compelled to use system statistics because the carriers were unable to segregate the interchange traffic and show the respective costs of service for that alone and no offer of such segregated costs is made in the present petition. Moreover, these system figures were voluntarily presented by both groups of carriers as pertinent and important evidence. We were also obliged to use system statistics which spread over into other territories, because of the difficulty of obtaining representative statistics closely confined to the two groups. The Western Trunk Lines did attempt such a segregation and we use the results as shown above as one of the checks upon our conclusions but the Southwestern Lines objected to these figures as not sufficiently representative."

Again the Commission, in its second report, says:

"We realized that the statistics were open to criticism in certain respects and resolved doubts in favor of the carriers whose revenues would be reduced by our findings, i. e., the Southwestern Lines. The final result

was not a product of the statistics alone, but was reached after considering all of the pertinent evidence."

It is thus observed that the petitioners offered these statistics in evidence and the conclusion of the Commission is not confined to such evidence. The fact that the statistics cover systems might go to the weight of the testimony but not to its admissibility. (R. 1333–4.)

In Assignment of Error 16 (d) (R. 130–1) it is alleged that the Commission referred to and considered the average operating revenues, expenses, and average hauls of the Northern Pacific and other roads, without these figures being introduced in evidence. In this connection it is submitted that one statement of the Commission can not be detached from the rest. The entire passage shows that certainly the southwestern lines were liberally treated by the Commission which, as it stated, "resolved doubts in their favor." (R. 105.) Quoting from page 104 of the report on reconsideration the Commission said:

The southwestern lines now object to this statement upon the ground that we assumed without evidence that conditions are more favorable in official territory than in western trunk-line territory, and that the operations of the Illinois Central in the Mississippi Valley are conducted under more favorable conditions than its operations in western trunk-line territory. Yet they now ask us to assume, without proffer of definite evi-

dence, that conditions in far western territory are much less favorable than in western trunk-line territory. Merely as an indication that there may be doubt as to this assumption, we have extracted from the annual reports for 1924 the following statistics for roads which operate wholly or largely in far western territory:

Carrier	Per ton-mile		
	Operating revenue	Operating expenses	Average haul
	Mills	*Mills*	*Miles*
Great Northern	10.64	6.69	255.5
Northern Pacific	11.21	7.69	272.9
Western Pacific	9.53	7.51	374.2
Union Pacific	11.67	7.20	393.3

In the same year the averages which we found in our prior report for the western trunk-line group, including the Rock Island and the Santa Fe, were 11.29 mills per ton mile for operating revenue, 8.38 mills for operating expense, and 221 miles for average haul. Excluding these carriers, they were 10.78 and 8.07 mills and 204 miles, respectively. We are not convinced from what has been presented that inclusion in the group statistics of certain operations in far western territory materially distorted the comparison to the disadvantage of the southwestern lines. Moreover, as above indicated, we resolved doubts in their favor, and our final conclusions were not dependent upon these statistics alone. And while the petition criticizes the statistics which were used, it makes no clear and definite offer of better

> evidence. In fact, throughout the petition the criticism is destructive rather than constructive. (R. 105–6.)

It is clear from the reports that no reliance whatever was placed upon these statistics of far western carriers in the decision of the case. They were cited merely as an indication that the assumption in the petition for rehearing filed by the southwestern lines on March 1, 1929, that transportation conditions in far western territory are much less favorable than in Western Trunk-Line Territory, might be without foundation. In that petition the Commission was, in effect, asked to accept that assumption without specification or proffer of any evidence definite or indefinite, which the southwestern lines proposed to introduce in support thereof.

As pointed out by the lower court in its opinion, the use of these figures in the second report of the Commission did not affect the merits of the Commission's order; its decision had already been made with respect to the divisions involved in this case. (R. 1335.) The court said:

> It is charged that the Commission went outside of the record in that it gave consideration to certain statistics of the Great Northern, Northern Pacific, Western Pacific and Union Pacific railroads. Reference to these statistics is made in the second report of the Commission and they were referred to in response to charges made in the petition for rehearing to the effect that the operations

of the Western Trunk Lines in territory west of the Western Trunk Line territory were not carried on under as favorable conditions as were these operations in the Western Trunk Line territory. The use of the figures in the second report does not affect the merits of the Commission's order. The decision had already been made with respect to the divisions involved in this case.

The second report discussed the petition for rehearing and the grounds for denying same, but it modified its first report with respect to overhead traffic handling. These modifications were in no manner affected by the statistics quoted from the Great Northern, Northern Pacific, Western Pacific and Union Pacific roads. The Orient Divisions case relied upon by petitioners condemned the use of evidence necessary to establish the essential facts, when such evidence had not been properly introduced, but the statistics here referred to were not so used. (R. 1334.)

Concerning the allegation (R. 129) that the Commission's order is unlawful and void because the Commission did not have before it all the necessary and proper parties, to wit: the railroads operating in the territory east of the Illinois-Indiana State line and connecting with the Western Trunk Line respondents at junctions in the State of Illinois, it is sufficient to point out, as the lower court has done, that the order does not purport to affect the revenue accruing to the eastern lines, and it was not necessary that they be made parties.

In holding the contention now being discussed to be without merit, the lower court said:

> The contention that the order is vulnerable because it prescribes the division of joint rates on traffic to and from points east of the Indiana-Illinois state line is based upon a misapprehension. The order provides that the shares of joint rates on the overhead traffic shall be determined in accordance with the formula prescribed by the Commission. The oral evidence taken in this court is to the effect that these rates divide on the Mississippi river and the revenue accruing to the carriers east of the river is eastern revenue and the revenue accruing to the carriers west of the river is western revenue, and that the roads receiving it are known as western carriers. In its first report the Commission held that on the overhead traffic in question the shares accruing to the western lines should be determined on a formula which the Commission prescribed. The order, particularly in connection with the oral testimony offered, is not uncertain, it does not purport to affect the revenue accruing to the so-called eastern lines, and hence it was not necessary that the eastern lines should have been made parties to the proceeding. There is no merit in this contention. (R. 1337.)

In subdivision (e) of Assignment of Error 16, the criticism is that the Commission considered operating conditions in other territories without evidence thereon being introduced. (R. 131.) This

claim was made in the petition for rehearing and was discussed by the Commission in its report on rehearing, pages 103–104. (R. 104–5.) In its first report the Commission had said:

> * * * In the first place, while both groups contain systems which extend beyond their western boundaries into territory with less favorable operating conditions, the western trunk-line group also contains systems, such as the Wabash and Illinois Central, which extend beyond its eastern boundary into official territory with its more favorable operating conditions and, in the case of the Illinois Central, into the Mississippi Valley portion of southern territory. * * * (R. 83.)

In its second report, in referring to the statement just quoted, the Commission said:

> The Southwestern lines now object to this statement upon the ground that we assumed without evidence that conditions are more favorable in official territory than in Western Trunk Line territory and that the operations of the Illinois Central in the Mississippi Valley are conducted under more favorable conditions than its operations in Western Trunk Line territory. (R. 105.)

The matter was correctly disposed of in the opinion of the lower court, from which we quote:

> It is also claimed that the Commission went outside of the record in assuming that operating conditions upon certain parts of the Wabash and Illinois Central Railroads lying without Western Trunk Line territory were

more favorable than operating conditions in Western Trunk Line territory. The matter is referred to by the Commission in its second report in the following words: "The Southwestern lines now object to this statement upon the ground that we assumed without evidence that conditions are more favorable in official territory than in Western Trunk Line territory and that the operations of the Illinois Central in the Mississippi Valley are conducted under more favorable conditions than its operations in Western Trunk Line territory." The first report made no such reference but did say that the Wabash extended beyond the eastern boundary of the Western Trunk Line territory into official territory with its more favorable operating conditions. The Wabash is shown to be an eastern line. In the *Orient Divisions Case* it is said: "The parts of the annual report in question were used as evidence of facts upon which it was deemed necessary to prove, not as a means of verifying facts of which the Commission, like a court, takes judicial notice." Manifestly the Commission's reference to those operating conditions was in the nature of a criticism on the cost figures presented to the Commission, but notwithstanding this criticism, the figures were accepted. There was no necessity of any proof with respect to the operating conditions on the Wabash Railway in official territory, and the statement complained of did not constitute a finding and the decision is not dependent upon any such alleged assumption as to these operating conditions. (R. 1335.)

In subdivision (f) of Assignment 16 it is alleged that the Commission considered traffic densities in 1927 within the Western Trunk-Line and Southwestern territories, segregated by states, although that data was not introduced in evidence. (R. 131.) This allegation is answered on page 100 of the report on reconsideration, where the Commission said:

> It is alleged that we went outside of the record in our consideration of traffic densities in 1927, and that the stipulation that we might consider information on file with the commission related to annual reports only.
>
> *Comment.*—The data referred to are incorporated in special reports now secured annually by our Bureau of Statistics. We believe that the stipulation was broad enough to cover these reports. However, this evidence was merely corroborative of conclusions drawn from other evidence which is admittedly of record, and the 1927 showing was in no way essential to our findings. Moreover, there is no allegation in the petition that these 1927 figures were inaccurate. (R. 101.)

Appellants' contention on this point is that the stipulation referred to was that the "Annual Reports" for 1926 and 1927 could be considered in evidence and that such "Annual Reports," as that term is universally understood, do not include traffic densities segregated by states. When the discussion before the Commission leading up to this

stipulation is considered in its entirety, as of course it must be, it leaves no doubt, we submit, that it is broad enough to include these special reports filed with the Commission. At the oral argument before the Commission (which has been included in the record here) the following appears:

> Mr. TOWNER: * * * I did not want to talk about density, however, because I have an offer to make with respect to that: the Examiner has followed and used the State density figures. Perhaps he is right. I do not think he is. I favor the method of using the density of the lines of respondent but the point is that the figures apply to all carriers, but the State figures should be taken. He has found the density in Western Trunk Line territory is greater than in Southwestern and by a substantial percentage, including Illinois. He concludes with respect to that point, however, by finding that in the near future [if] the present ratio increase of density in Southwestern territory continues the density will be on a parity. The last figures put in the record were for individual lines as of 1925. There were no State figures available at the time the hearing was closed for 1925 and there were none for 1926. I was uncertain of the propriety of doing it, but I put in my exceptions the statement of figures of 1925 and of 1926 density and added to it a statement; I intended to ask the Commission if I might submit those figures. They are standard and I did it so that I could give my adversaries notice of

what I intended to do. We have prepared figures—Mr. Parsons who prepared them is prepared to answer any questions that may be asked with respect to them. The figures were gotten up by a Bureau to which my opponent belongs as well as my own line, and inasmuch as it related to such important matter I thought the Commission might desire to make it part of the record and, while I do not understand it is proper to submit this in argument, I have the figures and I assume that Mr. Outlaw and Mr. Muckley will have no objection. I put the statement regarding them in the exceptions for that reason.

Mr. MUCKLEY: I will continue any objection that I have to additional evidence for 1926 alone unless we have the evidence similarly for 1927. I do not want the record to show any particular change of one year. If we open the case we should look into all the conditions, such as the consideration of the flood catastrophes of the Southwest and I would like that considered.

Mr. TOWNER: We would have been glad to put in the 1927 figures but I was advised that they were not available.

Commissioner MEYER: We will give consideration to these suggestions. For the present, please, proceed with the argument.

Commissioner EASTMAN: Can the parties agree that the Commission can refer to reports on file filed by the various carriers up to date instead of depending on the old records?

Mr. TOWNER: As far as I am concerned I am willing to make that stipulation that the annual reports of all the lines may be referred to by the Commission for such information as it wishes to get from them.

Commissioner MEYER: Do you agree to that, Mr. Outlaw?

Mr. OUTLAW: It places me in an embarrassing position. Of course when you refer to these matters often use is made of them and they are used in such a manner that, without explanation, they might be susceptible of different interpretations. When you can explain the use to be made of them and what interpretation is to be made of the statements, it is a different matter. Therefore I dislike to do it but as long as the Commission asks for it I will agree to that.

CommissionerMEYER: Such reference may be made to them?

Mr. OUTLAW: Under the circumstances, yes. (R. 1265–7.)

The Commission has stated that traffic densities by states in 1927 were obtained by special reports secured from the carriers by its Bureau of Statistics. (R. 101.) It is submitted that these reports come within the meaning of the stipulation. But assuming that they are not to be so regarded, the fact remains that similar statistics obtained from the same source for the years 1922, 1923, and 1924 are of record and were submitted by the southwestern lines themselves. Nor is it alleged that the 1927 statistics referred to by the Commission

in its report are in any way inaccurate. Furthermore, as stated in the passage quoted above, this evidence was merely corroborative of conclusions drawn from other evidence which is admittedly of record, and was in no way essential to the conclusions reached.

In its opinion on this point, the lower court said:

> The contention that the density figures for 1927 referred to by the Commission in its first report were not in the record does not seem to be warranted by the record. The report of the Commission shows that "Upon the argument it was stipulated that we might refer in the decision of the case to reports on file with us which had been received since the close of the hearings. Such reports make it possible to compare traffic densities for 1927 computed in the same way as those shown above for 1924."
>
> In the Commission's second report it is said: "The data referred to are incorporated in special reports now secured annually by our Bureau of Statistics. We believe that the stipulattion was broad enough to cover these reports." Without further reference to the record, it seems sufficient to say that these records were properly before the Commission. (R. 1336.)

The last contention urged under this assignment is that the Commission did not have evidence before it showing operating expenses, taxes, etc., and a fair return on investment as regards the transportation service performed upon the traffic trans-

ported under the joint rates involved in the proceeding before the Commission. (R. 131.) This in effect is an attack upon the Commission's order because it dealt with the Western Trunk Line and Southwestern lines on a group basis, a proposition already discussed in this brief. (*Ante*, pp. 20–24.)

In its first report, p. 473 (R. 78), the Commission showed the average freight operating expenses per ton-mile in 1924 of Class I carriers operating in the Western Trunk line and Southwestern groups, such average operating expenses being shown by including, in one instance, and excluding, in another instance, the Santa Fe and Rock Island (carriers having important mileages in both groups). These average operating expenses (freight) were further shown with respect to strictly western trunk lines and strictly southwestern lines, and, as the Commission said:

> these figures indicate that it cost somewhere in the neighborhood of 15 per cent more per ton-mile to haul freight in the Southwest than in western trunk-line territory. (R. 78.)

The Commission then pointed out that:

> Operating expense, however, does not tell the whole story, for there are overhead charges to consider, such as taxes and return or investment, and it is with respect to such overhead that the carriers with the heavier traffic density have the advantage. Average freight revenues per ton-mile are from this

> point of view better criteria, and we have seen that they were somewhere in the neighborhood of 25 per cent higher in the Southwest than in western trunk-line territory. But such revenues in turn may be partially misleading, for they may have provided a larger return on investment in the one case than in the other. A still better basis for comparison would obviously be the amounts needed in each case to cover operating expenses, taxes and other like charges, and a fair return on investment. (R. 78.)

The Commission then showed the book investment (which included Road and equipment, materials and supplies, and cash), the net railway operating income and the percentage of return for all carriers in the two groups, including in one case and excluding in another the Santa Fe and Rock Island lines. (R. 80.) These figures were taken from an exhibit introduced by the Southwestern lines, consisting of 56 pages, which is incorporated in this transcript. (R. 512.) At p. 476 (R. 84) the Commission set out the relative financial conditions of the two groups of carriers for 7 different years, and which showed net railway operating incomes stated in percentages of aggregate book investments. The amount of revenue required by each respondent before the Commission to pay operating expenses, taxes, and a fair return on its property held for and used in the service of transportation was shown in considerable detail in Exhibits A–124 and A–241, which are printed in the record.

These statements also show the rates of return earned by the carriers for several years up to the close of the hearings before the Commission.

The usual general allegations are made that the order of the Commission is unsupported by the evidence; it is of course established by decisions of this court that an order of the Interstate Commerce Commission, if unsupported by evidence, is void. The following cases so hold:

> *Interstate Comm. Comm.* v. *L. & N. R. R. Co.*, 227 U. S. 88, 90–2.
>
> *Chicago, R. I. & P. Ry. Co.* v. *U. S.*, 274 U. S. 29, 33–4.
>
> *New England Divisions case*, 261 U. S., 184, 203.
>
> *Florida East Coast Ry.* v. *U. S.*, 234 U. S. 167.

Therefore, in view of the allegations of appellants of lack of evidence, the record before the Commission must be examined to the extent of determining whether it does or does not contain substantial evidence in support of the order. It is unnecessary, however, to go further in such examination. *Interstate Commerce Commission* v. *Union Pacific R. R.*, 222 U. S. 541, states:

> In determining these mixed questions of law and fact, the court confines itself to the ultimate question as to whether the Commission acted within its power. It will not consider the expediency or wisdom of the order, or whether, on like testimony, it would have made a similar ruling. "The findings of the Commission are made by law *prima facie*

> true, and this court has ascribed to them the strength due to the judgments of a tribunal appointed by law and informed by experience." *Ill. Cent.* v. *I. C. C.* 206 U. S. 441. Its conclusion, of course, is subject to review, but when supported by evidence is accepted as final, not that its decision, involving as it does so many and such vast public interests, can be supported by a scintilla of proof—but the courts will not examine the facts further than to determine whether there was substantial evidence to sustain the order. (Ibid., 547.)

See also *Interstate Commerce Commission* v. *Ill. Cent. R. R.*, 215 U. S. 452, 470; *New England Divisions Case*, 261 U. S. 184, 204; *Virginian Ry. Co.* v. *United States*, 272 U. S. 658, 663; *Western Chemical Co.* v. *United States*, 271 U. S. 268; 270–271; *Procter & Gamble Co.* v. *United States*, 225 U. S. 282, 297–298, and cases therein cited.

The evidence dealing with the situation in the Southwest as compared with western trunk-line territory covers many pages of the record (R. 159–1169), and over 250 exhibits, all of which were introduced before the lower court. Obviously, in a brief it is not possible to do more than summarize such evidence, and this, in fact, is what the Commission has done at pages 477–78 (R. 85) of its report of December 10, 1928 (148 I. C. C.), where it said:

> * * * Summarizing the evidence, so far as salient facts are concerned, it is shown:

1. That the present divisions were established, for the most part, about 35 years ago and conform to no logical or consistent basis. They are considerably more favorable to complainants in the case of oil and lumber than in the case of other forms of traffic.

2. That transportation conditions have changed materially since most of the divisions were established, and that the change has benefited defendants more than it has complainants. The trend is distinctly in favor of defendants.

3. That transportation conditions are nevertheless more favorable in western trunk-line territory than in the Southwest, more particularly with reference to density of traffic. However, conditions vary in the different parts of western trunk-line territory, and appear on this record to be considerably more favorable in Illinois than in the other States included in that region. They grow continually less favorable from east to west.

4. That the difference in transportation conditions is reflected in the level of rates in the two territories. It is not possible from the record to determine just what the difference is in average levels, but it appears to be greater than the difference in average transportation conditions. This is particularly true of the class rates which have apparently been constructed upon somewhat different theories in the two territories, and are in process of revision in western trunk-line territory.

5. That the cost of operation per ton-mile, including all expenses, charges, and a fair return on investment, in all probability does not average as much as 20 per cent higher in the southwestern than in the western trunk-line group.

6. That the financial condition of complainants is not on the whole as good as that of defendants. (R. 85–6.)

With the full record before it the lower court reviewed the evidence and said:

All of the tariffs in effect at the time of the hearing were stipulated into the record before the Commission. The divisions contained in these sheets to the rates carried in the tariffs as made in the case of individual shippers, were shown in detail, and evidence of this character was offered both by the representatives of the Western Trunk Lines and representatives of the Southwestern Lines.

It is to be noted that these documents so offered in evidence covered all car load traffic moving in June and October, 1924, over respondent's lines between Western Trunk Line territory and Southwestern territory and showed the total revenue, junction, originating and delivery line, commodity, origin, destination, weight, haul north and south of the junction, revenue as divided, revenue per carrier mile, tons hauled one mile, and similar statistical information. With respect to each respondent carrier these statements not only showed typi-

cal examples of each division of each rate of every carrier, but showed an actual cross-section of actual traffic moving in the two average months of 1924. In fact, it appears that the statements in evidence were of the same character as the September, 1928, test put in the record before this Court as Exhibit 10, on which the petitioners relied as adequately showing exactly what will happen under the new division prescribed by the Commission's order.

The record is replete with statistical information and statements showing rates and divisions applicable to individual commodities shipped in volume between the two territories. Much of this evidence is reflected in Exhibit I filed in this Court by petitioners. Of the 289 exhibits offered in evidence before the Commission, great numbers of them reflect the very details mentioned in the decisions relied upon by petitioners.

We think it clear that the Commission assumed that the record was ample in quantity and substantially typical to justify the order entered as to each of the carriers, and as before noted, the case would seem to be ruled by the *New England Divisions Case, supra,* and we think all other contentions of counsel with reference to this question are met and answered by the decision in the New England case and no good purpose would be served by a further consideration of the subject. (R. 1328–9.)

Section 15 (6) requires the Commission to consider, among other things, the importance to the public of the transportation services of the carriers involved. Objection is made that this requirement of the statute has not been met; we submit, very respectfully, that figures quoted in the opinion of the lower court, all of which were taken from the record before it, and the reasoning of the court on this point, dispose of the objection. The court said:

> It is urged that there was no testimony before the Commission with regard to the importance to the public of the transportation services of each of respondents, and hence the order cannot be sustained, and that the order is not in the public interest. Paragraph 6 of Section 16 [15] of the Interstate Commerce Act provides that the Commission shall give due consideration, among other things, to " The importance to the public of the transportation services of such carriers." The question of public interest would not be susceptible of direct proof but must be gathered from all the facts and circumstances, and is made up of many factors. The statements and exhibits put in evidence before the Commission would seem to reflect every aspect of the commercial importance of the transportation involved in the hearing. These exhibits include a series of maps showing the lines of the various roads, together with divisional groups in the two territories. A casual glance at these maps shows that practically all of the railroad

mileage in the central section of the United States is operated by the carriers participating in the hearing. The exhibits show the vast amount of freight handled between the two territories. It appears that in the year 1925 the Western Trunk Line respondents operated over 48,000 miles of railroad and the Southwestern lines operated nearly 49,000 miles of railroad. That the property investment of the Western Trunk Lines was $3,432,475,212 and the property investment of the Southwestern line respondents was $3,403,862,855. That during 1925, the public paid the Western Trunk Lines $867,887,503 for transportation services performed, and likewise paid the Southwestern Lines $863,-242,535 for transportation services performed. This is also shown for the three previous years. These lines furnished the railroad transportation in a region comprising nearly one-third of the area of the United States.

It would seem inevitably to follow from this testimony that the railroad transportation service involved was of the utmost public importance and would not require the direct testimony of any witness to this fact. It is a conclusion based upon the facts appearing in this record that can not be escaped.

The Commission in its opinion says that it had taken into consideration all the circumstances mentioned by the statute so far as the record made it possible so to do. The public being interested in the transportation service involved and the efficiency thereof,

it may be assumed that the Commission, in making its order, had in mind that the public interest would be served, and this conclusion, whether wise or imprudent, is based upon evidence in the record and cannot be reviewed by this Court. The Commission found that the divisions were not just, reasonable nor equitable, and having so found, it was authorized under paragraph 6 of Section 15 of the Interstate Commerce Act, on public hearing to change the divisions so as to cure the injustice, unreasonableness and inequality found to exist. The Commission attempted at least by this order to cure this unlawful condition and such a change would certainly be in the public interest. The mere incidental fact that some of the Southwestern lines making a lesser rate of return than some of the Western Trunk Lines may lose money is not a controlling factor. The same contention was made in the New England Divisions case, supra, in which the Supreme Court sustained the Commission's order. (R. 1330–1.)

7. The District Court erred in restraining enforcement of the Commission's order of June 10, 1929, as amended by its orders of July 25 and September 24, 1929, pending appeal to and determination of the appeal by this court

As hereinbefore shown, notwithstanding that, on final hearing, the District Court failed to find that in making and entering the orders of June 10, 1929, July 25, 1929, and September 24, 1929, the Commission did or omitted to do any act tending to show

that the orders or that either of them is invalid, but on the contrary after a very full opinion sustained the validity of the Commission's action in all respects (R. 1318), and notwithstanding that on account of such failure it declined to grant the injunction asked for by petitioners below, the court, without notice and without hearing, restrained enforcement of the orders pending appeal to and determination of the appeal by this court. (R. 136.) As a condition to the granting of the stay pending appeal, the lower court required the execution of a "good and sufficient bond" in the sum of $3,000,000. (R. 137.) In granting a restraining order under these circumstances we think the District Court erred.

After the stay order had been in effect about two months, the court heard arguments with respect to a motion to vacate said order pending appeal, and, after argument, the motion to vacate was denied. (R. 1313.)

The lower court granted the stay pending appeal to and decision of this court for reasons stated in its order of November 29, 1929, as follows:

> 1. That novel and important questions concerning which there is serious doubt are presented by the assignment of errors filed herein which should be reviewed by the Supreme Court of the United States;
>
> 2. That on account of the financial condition of some of the respondent railroad companies in Western Trunk-Line territory

which are in receiverships, petitioners would be in danger of not being able to recover any increased divisions which they might pay to said Western Trunk-Line respondents, in the event that the decree of this court should be reversed on appeal and said order, or orders, of the Interstate Commerce Commission be adjudged to be invalid;

3. That irreparable injury may result if the Commission's said order is not stayed pending appeal;

4. That on account of the effect on the net revenues of the petitioners, and the fact that the said orders of the Interstate Commerce Commission do not apply to all the joint rates between Western Trunk-Line and Southwestern territories, which will necessarily cause confusion and necessitate a large amount of labor and expense which should not be incurred unless the validity of the said orders should be upheld on appeal;

5. That the said order of the Commission has not yet gone into effect;

6. That the status quo should be preserved pending appeal;

7. That if the said order of the Interstate Commerce Commission is stayed pending appeal the public will not suffer in any manner by reason of said stay;

8. And that the rights and interests of the said respondent railway companies in Western Trunk-Line territory can be fully and adequately protected by the execution by appellants of a good and sufficient bond. (R. 136–7.)

In the case of *Virginian Railway Company* v. *United States,* 272 U. S. 658, involving the validity of an order of the Commission requiring the carriers to cease and desist from collecting rates on coal from stations on the Virginian Railway to destinations in the West which exceed the district rates to the same destinations, this court had occasion to pass upon the jurisdiction to be exercised by a District Court in staying enforcement of a Commission order pending appeal. In the *Virginian Ry. case* this court held that the power to stay the order pending appeal was one that called for an exercise of discretion by the court who "heard the whole matter, have read the record, and can pass on the issue * * * without additional labor." The court further held that there was an abuse of such discretion in that case, and in sustaining the Government's cross-appeal with respect thereto, among other things, said:

> In this class of cases an appeal bond can rarely indemnify fully even private parties to the litigation for the loss of the benefits of which the stay deprived them; and the public would usually be left wholly remediless. To justify granting the stay after a final decree sustaining the Commission's order, it must appear either that the district court entertained a serious doubt as to the correctness of its own decision; or that the decision depends upon a question of law on which there is conflict among the courts of the several circuits; or that some other

> special reason exists why the order of the Commission ought not to become operative until its validity can be considered by this Court. (Id. 673.)

A reading of the very full opinion of the District Court (R. 1318) indicates there was " no serious doubt as to the correctness of its own decision "; nor does the decision depend upon a question of law on which there is conflict among the courts of the several circuits. Is there any special reason advanced by the lower court why the Commission's order ought not to become operative until its validity can be considered by the Supreme Court? We fail to find any in the reasons given by the lower court, summarized above (p. 73). In view of the decisions of this court in *New England Divisions, supra,* and in *Orient Divisions case, supra,* we do not believe (1) there is any novel or important question on which there is serious doubt unanswered; and (2) it would seem that the fact that several of the western trunk lines are in receivership is a very good reason why they should be permitted to get the "just" and "reasonable" divisions to which both the Commission and the lower court found them entitled. (3) "A stay is not a matter of right, even if irreparable injury might otherwise result to the appellant." (*Virginian Railway case, supra,* p. 672.) Appellants do not appear to be suffering any more injury in being allowed to retain divisions the Commission found unreasonable—and its action was affirmed by the lower court—than the

appellee carriers are suffering in having such divisions withheld. (4) The "confusion," "labor," and "expense" should properly be incurred by a party bringing a suit found by the court to be without merit; just as in a case appealed to this court an appellant has considerable "labor" and "expense" in perfecting an appeal, such as reducing testimony to narrative form, assigning error, designating portions of record to be printed, etc. (5) The fact that the Commission's order has not yet gone into effect, and (6) that the court states the *status quo* pending appeal should be preserved, are too general. (7) The question of public interest would seem to be best served by the valid Commission order being put into effect, rather than the continuance of a condition found invalid by the Commission, whose action was affirmed by the court. Further, the question of "public interest" is one of the elements the Commission must consider, and has considered. (8) As said by this court in the *Virginian case*, "an appeal bond can rarely indemnify fully even private parties to the litigation for the loss of the benefits of which the stay deprived them; and the public would usually be left wholly remediless" (p. 673).

We believe that under the facts of this case the issuance of the stay order by the District Court constituted an abuse of discretion, and that the doctrine enunicated in the *Virginian case, supra,* should be applied here. Ordinarily, it is inconsistent for a District Court to grant a stay order with

the one hand, while denying an injunction with the other.

For the reasons above set forth we respectfully submit that the appeal of the carriers in case No. 44 should be dismissed, and that the cross-appeal of the United States and the Interstate Commerce Commission in case No. 45 should be sustained.

E. M. REIDY,
For Interstate Commerce Commission.

D. W. KNOWLTON,
Of Counsel.

In behalf of the United States we concur in the argument and conclusions of Counsel for the Interstate Commerce Commission contained in this brief.

THOMAS D. THACHER,
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JOHN LORD O'BRIAN,
The Assistant to the Attorney General.

CHARLES H. WESTON,
Special Assistant to the Attorney General.

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DEC 19
CHARLES ELMORE

Nos. 44 and 45.

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1930.

THE BEAUMONT, SOUR LAKE & WESTERN RAILWAY COMPANY ET AL., APPELLANTS,

VS.

THE UNITED STATES OF AMERICA ET AL., APPELLEES.

PETITION FOR REHEARING.

F. H. MOORE,
W. E. DAVIS,
E. T. MILLER,
M. G. ROBERTS,
J. R. BELL,
G. H. MUCKLEY,
H. H. LARIMORE,
C. S. BURG,
J. R. TURNEY,
ROBERT THOMPSON,
Counsel for Appellants.

SAMUEL W. MOORE,
Of Counsel.

December 16, 1930.

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(b) There was no evidence before the Commission showing the extent and classes of traffic, under the said joint rates, as to which each individual carrier was an originating, intermediate or delivering line. These facts were also required, under Section 15 (6) 17

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APPELLANTS,

VS.

THE UNITED STATES OF AMERICA ET AL.,
APPELLEES.

PETITION FOR REHEARING.

Come now the appellants and respectfully pray the Court to grant a rehearing in this cause.

We know that this Court grants rehearings very seldom, and properly so. It nevertheless seems to us so clear, upon a careful examination of the Court's decision, that it is based upon a misapprehension of the evidence, and that the Court, while reiterating the principles laid down in previous cases, which were contended for herein by us, has inadvertently approved a

decision of the Commission which is in direct conflict with those principles, that we believe we are justified in filing this petition.

Furthermore, it seems to us that since the Court found that the report of the Commission is insufficient to sustain its order, the presumptions in its favor no longer obtain, and the Court should, under the decisions, either reverse the decree of the District Court, with directions to set aside the Commission's order, or reverse and remand the case to the District Court for further proceedings, in order that the Interstate Commerce Commission may take additional testimony and make the necessary findings. It is our contention that one of those courses is likewise required by the lack of evidence on which to base the necessary findings.

Appellants therefore briefly state their grounds, supported by certificate of counsel, as follows:

1. The Court has inadvertently erred in holding that the evidence is sufficient to sustain the Commission's order, for the reasons among others that:

(a) There was no evidence as to any carrier concerning the amount of revenue required to pay its operating expenses, taxes and a fair return on its railway property, attributable to the traffic transported under the joint rates, the divisions of which are in issue here. Such evidence is specifically provided by the provisions of Section 15 (6).

(b) There was no evidence before the Commission showing the extent and classes of traffic under the

said joint rates as to which each individual carrier was an originating, intermediate or delivering line. These facts were also required under Section 15 (6).

2. The court erred in linking together Section 15 (6) and Section 15a. In Section 15 (6) the term "amount of revenue required to pay their operating expenses, taxes and a fair return on their railway property held for and used in the service of transportation" clearly refers to the amount of revenue required by the respondents to pay their respective operating expenses, taxes and a fair return attributable to the traffic moving under the joint rates in issue here. In Section 15a the similar provisions refer to the aggregate group value, rates and net income of the railroads in a rate group from all traffic and operations.

3. The Commission failed to make essential findings of fact and its order should therefore be set aside since the Court cannot substitute its findings of fact for those of the Commission.

4. The Commission made no findings and there was no evidence before it bridging the gap between its findings as to general conditions and average revenue required to pay operating expenses, taxes and a fair return on investment in connection with handling all traffic in the two territories, and its formula for dividing the revenue from the joint traffic involved.

5. The court misapprehended the effect of various statements in the reports of the Commission which are hereinafter more particularly specified and

discussed. For example, the court erroneously stated that "The Commission found that existing divisions give Southwestern lines over 30 per cent more than their mileage prorate," whereas the Commission actually found that the Southwestern lines receive much less, to-wit: 12 to 13 per cent more than a mileage prorate under the existing divisions.

6. For the reasons above stated the court should either reverse the decree of the District Court or reverse and remand the case in order that the Commission may, in the light of the Court's decision, conduct further proceedings and make complete findings.

We proceed to a discussion of the grounds specified above.

I.

The Court has inadvertently erred in holding that the evidence is sufficient to sustain the Commission's order.

(a) *There was no evidence as to any carrier, concerning the amount of revenue required to pay its operating expenses, taxes and a fair return on its railway property, attributable to the traffic transported under the joint rates, the divisions of which are in issue here. Such evidence is specifically required by the provisions of Section* 15 (6).

Copies of Sections 15 (6), 15a (2) and 15a (6) are printed in Appendix A.

In order to explain our proposition, it will probably be helpful to make come quotations from the Court's opinion, which we will abbreviate as much as possible.

The court re-affirms its previous rulings that the condition of each carrier, and the reasonableness of the division of each joint rate, must be considered.

The Court says (p. 5 of loose leaf printed copy of opinion):

> The Commission by Sec. 15 (6) is required to consider the condition of each carrier and to determine whether the division of each joint rate is unreasonable or otherwise repugnant to the specified standards and what division will for the future be just, reasonable and equitable. *United States* v. *Abilene & So. Ry. Co.*, 265 U. S. 274, 291. The Commission may not change an existing division unless it finds that division unjust or unreasonable.

The Court, with respect to our contention that the prescribed divisions will transfer substantial sums from very weak carriers in Southwestern territory to prosperous ones in western trunk line territory, and that a mere comparison of returns demonstrates that divisions on a group basis will be unjust and arbitrary, says (pp. 6-7 of opinion):

> It seems to us that the table included in the first report, and others received in evidence show as between individual carriers in each group so wide a range of rates of return that, if approximate similarity in that respect is essential to the order, its basis cannot be sustained.

The Court, after stating that the term "average," as used by the Commission, is not a mathematical average, but rather "an estimated general mean of the conditions of the several carriers constituting each

group arrived at by the exercise of judgment upon the facts shown by the evidence," continues:

> The reports satisfactorily show that the findings as to average group conditions taken as a whole are sustained by substantial and persuasive evidence. But they do not deal with the important question whether, under the evidence and having regard to the wide dissimilarities between rates of return earned by individual carriers in each territory, the use of the average or group basis is justified and whether it will produce unreasonable divisions. The general statements in the reports to the effect that the Commission in reaching its conclusions considered all the pertinent evidence add nothing to the *prima facie* persumption that generally attends determinations of the Commission. *Bluefield Co.* v. *Public Service Commission*, 262 U. S. 679, 688-689.
>
> The Commission's failure specifically to report the facts and give the reasons on which it concluded that under the circumstances the use of the average or group basis is justified leaves the parties in doubt as to a matter essential to the case and imposes unnecessary work upon the courts called upon to consider the validity of the order * * * A sound basis for the rule or formula prescribing the divisions is essential to compliance with the Act.

The Court holds, however, that this "matter essential to the case" is fully covered by the evidence. It says (pp. 9-10):

> With this criticism of the reports, we turn to what is shown by the record. A study of the facts that may be gleaned from the latter leads to the opinion that, notwithstanding the wide differences in rates of return between carriers the

basis adopted will not, at least on that account, result in unjust and unreasonable divisions. The Commission must consider the financial condition of the carriers but it is not required to make that the only test. And it did not take the average of the rates of return as the sole or principal factor for making the divisions. As to each carrier, operating and other conditions were shown and presumably considered by the Commission in deciding whether average or group conditions might appropriately be used. It is not shown that the order will require any service to be rendered at less than cost. It is impossible to make divisions that will yield the same rate of profit to each carrier or upon every commodity or shipment moved by it. The average cost of service was apparently given much weight. It is not suggested that the operating expenses of each carrier attributable to the traffic in question vary as does its rate of return on its business as a whole. Nor does it appear that the carriers having the highest rates of return from their total business or from that in the territory in which they belong, move the traffic in question at comparatively low costs. Returns from total business of a carrier and the cost of handling the traffic covered by the joint rates are not dependent upon the same facts; the relation between them is slight and remote. For aught that appears the carriers having little or no return on their total business may move the traffic in question at low costs and realize a satisfactory percentage of profit on that part of their business.

Other things being equal, divisions made on the mileage basis will be the same as those made on the basis of relative costs. The Commission found that existing divisions give southwestern lines over 30 per cent more than their mileage prorate and the order leaves them substantially

> more than would divisions on that basis. This indicates that the Commission considered the relatively high costs at which the southwestern lines, or some of them, moved the traffic in question. The fact that average conditions affecting cost of tranportation in the two groups have changed and are still growing more favorable to the southwestern lines tends to justify a reduction of their existing divisions. The greater density found in western trunk line territory makes for lower costs, and that is shown to have been taken into account.

But the matters which the Court, in defending the report of the Commission, implies that the appellants (defendants below) should have proved, are matters which the statute requires shall be affirmatively shown before the Commission, in order that the Commission may make a valid order in a proceeding to fix divisions.

The Court, in the last quotation, says:

> It is not shown that the order will require any service to be rendered at less than cost * * * It is not suggested that the operating expenses of each carrier attributable to the traffic in question vary as does its rate of return on its business as whole * * * Returns from total business of a carrier and the cost of handling the traffic covered by the joint rates are not dependent upon the same facts; the relation between them is slight and remote.

As already stated, the Court, in sustaining the Commission's order, overlooks the fact that proof of "the cost of handling the traffic covered by the

joint rates" was essential to the making of a valid order in this proceeding. One of the matters which must be proved under Section 15 (6) is the amount required by the various participating carriers to pay operating expenses, taxes and return on investment. The Court makes it clear by the above quotations, and it would appear to be self-evident, that what is required under Section 15 (6), is the "operating expenses of each carrier attributable to the traffic in question." In fact, the Court, in this decision, has virtually held that statistics as to cost of operation, net railway operating income etc., from all traffic and operations, do not constitute even *prima facie* evidence as to such cost of operation, rate of return, etc., attributable to a part of the traffic.

This is one of the matters which the act requires shall be proved, and shall be given due consideration.

We assert as solemnly as we can that there was no evidence whatever of the "operating expenses of each carrier attributable to the traffic in question." And there was no proof as to the rate of return of any carrier upon that portion of its property which is devoted to the traffic under the said joint rates.

These were matters which were necessary to be proved by competent evidence, otherwise the Commission's order cannot stand.

Chicago Junction Case, 264 U. S. 258.
Orient Division Case, 265 U. S. 272.
St. Louis & O'Fallon Railroad Co. v. *United States*, 279 U. S. 461.
Frank L. Smith, et al. v. *Illinois Bell Telephone Company*, No. 90, decided December 1, 1930.

The court has, by its decision, reversed the burden of proof. It denies the defendants relief because there is not in the record affirmative evidence which is necessary to sustain the Commission's order.

We give a summary of the evidence, in order to demonstrate that there was no evidence before the Commission concerning the operating expenses, net railway operating income, value of property devoted to such service, nor other such data, as to any respondent, attributable to the traffic transported under the joint rates in question.

It is true that there was a large amount of testimony detailing the general bases of divisions, and special divisions received in certain instances by certain carriers, but there is in that testimony no evidence in regard to cost of operation, net railway operating income, etc., with respect to the traffic under the said joint rates. That testimony simply deals with existing divisions.

There were elaborate statements of system earnings, value etc., for example, Exhibit A-50 (R. 250), A-51 (R. 258), A-52 (R. 262), A-53 (R. 264), A-54 (R. 266), A-55 (R. 274), A-78 to A-80 (R. 366), A-124 (R. 512) and A-241 (R. 922), but an examination will disclose that they all show revenue, expenses, ton miles and other statistics for all traffic and all operations of each railroad.

There remain, outside of the testimony concerning the efficiency with which the individual carriers are being operated, and some general statistics as to

traffic density, increase in population, industries, railroad mileage, etc., only what are referred to as the June and October, 1924 "tests." Statements were prepared (the June statement by the Western Trunk Lines and the October statement by the Southwestern lines) from what are known as the interline settlements, which are the statements upon which the carriers account for and divide among themselves the revenue from the traffic in which they participate. Such parts of these statements as covered the carload shipments moving under the joint rates in issue here, were drawn off, and put in the form of the statements which are referred to as the June and October tests.

There was no test in this case in the sense in which that term is used in such cases as *Rowland* v. *Boyle*, 244 U. S. 106, 108, *Groesbeck* v. *Duluth, South Shore & Atlantic Railway*, 250 U. S. 607, 614 and *Smith et al.* v. *Illinois Bell Telephone Company*, decided December 1, 1930. It is only by such a test that operating expenses, etc., attributable to a part of the traffic of a railroad can be proved unless the parties agree upon the facts.

We have reproduced, and attach at the end of this petition, typical pages from Exhibits A-41 to A-49 and A-116 to A-123, which cover the said tests of June and October. All of the exhibits which were introduced in evidence before the Commission were by order of the District Court transmitted to the clerk of the Supreme Court as original exhibits and they are of course available for examination if desired, but the

typical pages attached hereto will, in our opinion, give a complete and accurate idea of the data contained in those exhibits. The first page which we have reproduced (marked Appendix 1) is page 8 of Western Trunk Lines' Exhibit A-41. This and other similar exhibits show all of the carload shipments of freight, which were transported during the month of June, 1924, under the joint rates, as to which the Western Trunk Line respondents, which introduced them, were either the originating or delivering line (not all of the Western Trunk Line respondents prepared the information, and so the June, 1924, statement covers only a part of the traffic. The October, 1924, statement is practically complete). Exhibit A-41 was prepared by the Chicago & North Western Railway Company, one of the Western Trunk Line respondents, and shows all the traffic moving under the said joint rates as to which the Chicago & North Western Railway was the originating or delivering line. It will be noted, however, that the said exhibit does not give, with reference to any carrier which participated in the transportation, information as to the length of haul performed by such carrier, revenue received by such carrier, or other information as to any individual line. It simply gives the length of haul south of Kansas City and north of Kansas City, the division of revenue south and north of that gateway, and other information upon the same basis, with no subdivisions among the participating southwestern carriers south

of Kansas City, or Western Trunk Line carriers north of Kansas City. For example, the Kansas City Southern has its northern terminus at Kansas City but the Chicago & North Western does not reach Kansas City, and upon the first shipment shown on page 8, which was transported from Shreveport to Chicago, there is no showing as to the length of haul by any of the participating carriers except the Kansas City Southern. At least three carriers necessarily participated in the transportation, for the reason that the Chicago & North Western does not reach Kansas City and therefore could not have received the shipment directly from the Kansas City Southern. Take the fourth item, where the Gulf, Texas & Western was the terminal line. Neither the Gulf, Texas & Western nor the Chicago & North Western reach Kansas City, so that at least four carriers must have participated in the movement between Megargel, Texas and Highwood, Illinois.

We have also attached (Appendix 2) a summary sheet of the Western Trunk Line statement, Exhibit A-60, to show that the only information given is the gross revenue, lengths of haul, ton miles, etc., divided into two portions, that is, north and south of Kansas City. The information is shown in the same manner where the gateway is St. Louis, East St. Louis, Cairo, Gale or Thebes.

The information prepared by the Southwestern respondents with regard to carload shipments transported under the said joint rates during the month

of October, 1924, was presented in substantially the same form. We have reproduced as Appendix 3, sheet No. 1, of Exhibit A-116. This particular sheet shows shipments of freight moving via East St. Louis and Cairo. This sheet shows the commodity transported, number of cars, and number of tons of freight. It also shows the number of miles each shipment was transported south and north respectively of the gateway at East St. Louis or Cairo, and likewise number of tons one mile, gross revenue and average haul, all divided into two parts, that is, south and north of the gateway. No subdivisions of revenue, ton miles, etc., are shown, as between the individual Southwestern carriers or Western Trunk Line carriers, and as the Court can see by referring to the exhibit, the gross or net railway operating income, operating expenses, etc., of each carrier, are not shown and could not be ascertained, from the information contained in the said exhibit.

We have also reproduced as Appendix 4, another sheet of Exhibit A-116, which contains the divisional bases as well as information similar to that shown in Appendix 3.

We have also reproduced, as Appendix 5, Exhibit No. A-123, which is a summary of the detailed statements contained in Exhibits A-116-122, and which shows only the information above described.

There is no information as to the value of the property of the various carriers devoted to the service under the joint rates in question nor as to the

cost of such service. There is no such information either as to the individual carriers nor as to the two groups of carriers. This is plainly apparent from an examination of the said exhibits, and also from a consideration of the manner in which they were prepared. As already stated, the carriers took their records of settlements with their connecting lines, commonly known as interline settlements, and extracted therefrom all carload shipments transported under the joint rates during the months of June and October, 1924, showing the point of origin, point of destination, whether traffic was northbound or southbound, number of cars, tons, and revenue, and then computed, north and south of the gateway, the number of car miles, tons one mile, average haul, average revenue per ton per mile, and average revenue per car mile.

The Commission in its reports concedes that there were not only no figures showing the cost of service, return on investment etc., attributable to the interchange traffic, but that only system averages were available and used by it.

The Commission said (R. 85):

> The greatest obstacle in securing a satisfactory record has been the difficulty of determining relative costs of service so far as the traffic in question is concerned. It has apparently not been practicable to segregate this traffic in the two groups, nor indeed to separate group traffic wholly from operations beyond group boundaries.

The Commission in its report on reconsideration said (R. 105):

> Reverting to the criticisms in the petition, we were compelled to use system statistics because the carriers were unable to segregate the interchange traffic and show the respective costs of service for that alone, and no offer of such segregated cost is made in the present petition.

With reference to the last statement in the above quotation, we respectfully submit that the primary duty, in an investigation initiated by the Commission upon its own motion, was upon the Commission, to frame the issues and to see that proper evidence was introduced.

We think we may properly say that the appellants have not shown any inclination to shirk their obligations in this regard. The Western Trunk Lines presented a traffic statement for the month of June, 1924, which was incomplete for the reason that a number of the Western Trunk Lines prepared no statements. The Southwestern carriers then prepared a statement of traffic for the month of October, 1924, which was complete. The Southwestern carriers also presented very complete testimony upon the other subjects which had been covered by the Western Trunk Lines, and many of the figures furnished by the Southwestern carriers were used by the Examiner and by the Commission in their reports.

The appellants had called this defect in the evidence to the attention of the Commission, as is shown

by its comments thereon in its report on reconsideration (R. 103-105), and we called attention to it in our briefs in this Court. For example, at page 97 of our original brief we said:

> There was no *bona fide* attempt to determine the relative cost and relative constructive revenue on the particular joint traffic involved in the proceeding, although that was the "precise" question which the Commission had in mind. It is intimated by the Commission that this could not be determined, but it is well known that it might have been ascertained with a fair degree of accuracy by conducting a test, if by no other method (citing *Northern Pacific Ry. Co.* v. *Department of Public Works*, 268 U. S. 39).

(b) *There was no evidence before the Commission showing the extent and classes of traffic, under the said joint rates, as to which each individual carrier was an originating, intermediate or delivering line. These facts were also required, under Section* 15 (6).

The extent to which each carrier was an originating, intermediate or delivering line with respect to the traffic under the said joint rates was not shown in evidence. Probably this information could have been supplied by some additional labor in connection with the June and October traffic studies, but it was not done.

The Commission practically concedes that there was no such evidence, in its report on reconsideration (R. 101), where it states that it is required under Section 15 (6) to consider among other things "whether any particular participating carrier is an originating,

intermediate or delivering line," but the Commission says: "these plainly are matters affecting cost of service." Since the only evidence which the Commission had, however, with regard to cost of service, was the cost of operation etc., on account of all operations and all traffic of each railroad, it is evident that such cost of service would not indicate to what extent a carrier was an originating, intermediate or delivering line as to that particular traffic, nor its effect on cost of service with respect to that traffic. It does not appear to us, however, that figures as to cost of service, even though segregated to the interchange traffic, could supply what was intended by the above requirement. If so, Section 15 (6) would not have specifically required this information in addition to evidence of cost of service.

The full quotation from the Commission's report on reconsideration on this subject is as follows (R. 101):

> The southwestern lines contend that relative cost of service in the two groups is not the only thing to be considered in fixing divisions, nor even a "vital factor," and that the act specifies many other things which must be considered.
>
> Comment—Relative cost of service is clearly a vital factor. Section 15 (6) of the Interstate Commerce Act specifies as matters to be considered the "amount of revenues required to pay their respective operating expenses, taxes, and a fair return on their railway property held for and used in the service of transportation" and "whether any particular participating carrier is an origi-

nating, intermediate, or delivering line," and these plainly are matters affecting cost of service. There are other matters to be considered, such as the "efficiency with which the carriers concerned are operated" and the "importance to the public of the transportation service of such carriers," but all of these we took into consideration after summarizing the pertinent evidence.

II.

The court erred in linking together Section 15 (6) and Section 15 a. In Section 15 (6) the term "Amount of revenue required to pay their operating expenses, taxes and a fair return on their railway property held for and used in the service of transportation" clearly refers to the amount of revenue required by the respondents to pay their respective operating expenses, taxes and a fair return attributable to the traffic moving under the joint rates in issue here. In Section 15 a the similar provisions refer to the aggregate group values, rates and net income of the railroads, in a rate group, from all traffic and operations.

The order of the Commission is based entirely on statistics as to cost of operation, rate of return, etc., from all traffic and all operations of the respondents, whether within or outside of the Southwestern territory and Western Trunk Line territory. This is necessarily true for the reason that as we showed under proposition I of this brief, no evidence was introduced and there has been no ascertainment of the cost of operation, rate of return, etc., of the various respondents, attributable to the traffic moving under the joint rates in issue here.

The Commission has not been given the power to transfer revenue from one group of carriers to another group of carriers upon a finding that one group, from all operations and traffic, is in better average condition than another group, regardless of the sources from which its net revenue is obtained.

The only power, in a proceeding under Section 15 (6), which has been given to the Commission, is to fix just and reasonable divisions of revenue from the joint rates of the participating carriers.

For this purpose, it is necessary to have evidence of the cost of operation, rate of return, etc., attributable to the traffic, the divisions of the joint rates of which are to be fixed; and evidence of average cost of operation, average rate of return, etc., from all operations and all traffic of the various respondents, is, as the court has held in this case, not competent evidence of such facts with reference to the traffic under the particular joint rates.

The Commission has confused its functions under Section 15 (6) and Section 15 a, and the Court has in like manner, erred in sustaining that action of the Commission. The Commission's function under Section 15 a, is to establish rates which as nearly as may be, will yield a fair return upon the aggregate value of the railway property held for and used in the service of transportation of the carriers in the rate group. For that purpose, the competent and material evidence is the aggregate investment of all the carriers in the

group, and the average rate of return received by all those carriers from all operations and traffic within the rate group.

Under Section 15 (6) however, the competent and material evidence is the amount of operating expenses, taxes and net income, required by each carrier, or type of carriers, from the divisions of the particular rates which are in controversy. The fact that a group of carriers is, on the average, earning a higher rate of return, than another group of carriers, from all operations and traffic of such carriers, does not give the Commission power to transfer a portion of the revenue of one such group to the other group under the guise of fixing reasonable divisions of the joint rates participated in by those two groups of carriers. But that is what the Commission has done in this case.

If, however, we are mistaken, and it is permissible, under Section 15 (6) of the Act, to transfer revenue from one group of carriers to another, on account of a finding that financial and transportation conditions generally are better in one group than in the other, judged by net revenues etc. from all traffic and operations, it would seem to follow necessarily that such a transfer cannot be made unless the group from which the revenue is taken is earning a reasonable return. In fact, it would seem that the group ought to be earning more than a reasonable return, so that the operation would in effect be a partial recovery of excess earnings, such as is provided for in Section 15a (6) of the Act. Neither the Western Group, which is the rate group, designated by the Commission, as provided in Section 15a, in which

all of the respondents are located, nor the Southwestern group, nor the Western Trunk Line group, as designated by the Commission in this case, is earning a reasonable return on investment, nor substantially the 5¾ per cent which it is the mandatory duty of the Commission to provide, as nearly as may be. (As to return of Western Group see Note 29, *St. Louis O'Fallon R. Co.* v. *United States,* 279 U. S. 461, 508; and as to return of Southwestern and Western Trunk Line groups, see table, R. 84.) The Court states in its opinion (p. 5) that the facts specified in Section 15 (6), and others necessarily or properly to be taken into account, are to be considered, having regard to the duty of the Commission under Section 15a (2). We respectfully submit, however, that Section 15a (2) does not appear to have been given any effect in this case. Especially in view of the difference in rate levels in the Southwestern territory and Western Trunk Line territory, the general level of all rates being about 25 per cent higher in the Southwestern territory, it should be held that the Commission must comply with its duty under Section 15a (2) to establish rates which will yield substantially 5¾ per cent upon the aggregate investment in the groups, before making such a group order, as was made in this case, for the change of divisions. It cannot reasonably be contended that the Commission has complied with its duty under Section 15a (2) for the reason that the rates established by it fall so far below a return of 5¾ per cent.

III.

The Commission failed to make essential findings of fact and its order should therefore be set aside since the Court cannot substitute its findings of fact for those of the Commission.

This Court found that the Commission failed to make essential findings of fact. The Commission's order is therefore void upon its face. It has been repeatedly held that where necessary findings of fact are not made by the Commission, its order cannot be sustained by the courts. *Louisville & Nashville Railroad Co.* v. *Behlmer*, 175 U. S. 648, 675, 676; *Interstate Commerce Commission* v. *Clyde Steamship Co.*, 181 U. S. 29, 32; *Interstate Commerce Commission* v. *Chicago, Burlington & Quincy R. R. Co.*, 186 U. S. 320, 340; *Interstate Commerce Commission* v. *Louisville & Nashville Railroad Co.*, 190 U. S. 273, 284, 285.

In the present case, the Court went to the record for the purpose of supplying the deficiencies in the Commission's findings of fact. The Court said (pp. 7-8):

> The reports satisfactorily show that the findings as to average group conditions taken as a whole are sustained by substantial and persuasive evidence. But they do not deal with the important question whether under the evidence and having regard to the wide dissimilarities between rates of return earned by individual carriers in each territory, the use of the average or group basis is justified and whether it will produce unreasonable divisions. • • • The Commission's failure specifically to report the facts and give the reasons on which it concluded that under the circumstances the use of the average or group

> basis is justified leaves the parties in doubt as to a matter essential to the case and imposes unnecessary work upon the courts called upon to consider the validity of the order.

The Court then said (p. 9):

> With this criticism of the reports, we turn to what is shown by the record.

It appears that the Court turned to the record for the purpose of determining whether or not there was sufficient evidence to support the findings of fact which the Commission might have made but did not. The Court, apparently being of the opinion that there was sufficient evidence to support the essential findings which the Commission failed to make, affirmed the order without either making the necessary findings itself or remanding the case to the Commission to make findings with reference to the matters omitted. The effect of this was to affirm the Commission's order *although no body authorized by law, has ever made the findings essential to support the order.* We have shown that the courts are without authority to supply findings omitted by the Commission. It necessarily follows that the present order is void and should be set aside or remanded to the Commission for the taking of further evidence and making additional findings. As we have said, inasmuch as the Commission's reports and orders are insufficient on their face, there can be no presumption in their favor. There is no presumption that the Commission would have made the essential findings of fact which have been omitted. No one can say what findings of fact the Commission

would have made with reference to the features not dealt with in its report. In fact, the omission of the essential findings clearly indicates, if it does not raise a presumption, that the Commission was of the opinion that the evidence did not justify it in making such findings.

In any event, the action of the Court in respect to these absent findings necessarily involves the making of findings upon first impression. It has been repeatedly held in the cases above cited that the courts have no authority to make findings upon first impression, in reviewing a decision of the Interstate Commerce Commission. This is supported by what this court said in *Federal Trade Commission* v. *Curtis Publishing Co.*, 260 U. S. 568, where an order of the Federal Trade Commission which omitted certain essential findings of fact was reviewed by this Court. The statute authorizing review of decisions of that body not only provides that the court may set aside the Commission's order, but also provides that the court may enter a decree modifying the Commission's order. In the case above cited, this Court set out a possible distinction between its power of review of the decisions of the Federal Trade Commission and of the Interstate Commerce Commission indicating clearly that in a review of the Interstate Commerce Commission's decisions, it will not make additional findings. At p. 580 the Court said:

> Manifestly, the court must inquire whether the Commission's findings of fact are supported by evidence. If so supported, they are conclusive. But as the statute grants jurisdiction to make and

> enter, upon the pleadings, testimony and proceedings, a decree affirming, modifying or setting aside an order, the court must also have power to examine the whole record and ascertain for itself the issues presented and whether there are material facts not reported by the Commission. If there be substantial evidence relating to such facts from which different conclusions reasonably may be drawn, the matter may be and ordinarily, we think, should be remanded to the Commission—the primary fact-finding body—with direction to make additional findings, but if from all the circumstances it clearly appears, that in the interest of justice the controversy should be decided without further delay, the court has full power under the statute so to do. The language of the statute is broad and confers power of review not found in the Interstate Commerce Act (24 Stat. 379). *Louisville & Nashville Railroad Co.* v. *Behlmer*, 175 U. S. 648, 675, 676, 20 Sup. Ct. 209, 44 L. Ed. 309, *Interstate Commerce Commission* v. *Clyde Steamship Co.*, 181 U. S. 29, 32, 21 Sup. Ct. 512, 45 L. Ed. 729, and *Interstate Commerce Commission* v. *Chicago, Burlington & Quincy Railroad Co.*, 186 U. S. 320, 340, 22 Sup. Ct. 824, 46 L. Ed. 1182, while helpful as to proper practice, do not determine the present problem.

The Court found in effect that the evidence was not sufficient to support all of the necessary findings of fact which it was essential for the Federal Trade Commission to make so as to support the order which it had entered, and the Court thereupon affirmed the decree of the lower court setting aside the Commission's order.

There seems to be some doubt, however, as to the authority of the court to make additional findings even under the statute involved in that case, if those findings would result in supporting the order. In a

separate opinion in that case, Mr. Chief Justice Taft with whom Mr. Justice Brandeis concurred said (p. 583):

> If this means that, where it clearly appears that there is no substantial evidence to support additional findings necessary to justify the order of the Commission complained of, the court need not remand the case for further findings, I concur in it. It is because it may bear the construction that the court has discretion to sum up the evidence pro and con on issues undecided by the Commission, and make itself the fact-finding body, that I venture with deference to question its wisdom and correctness.

It is respectfully submitted that the Court was in error in assuming that findings of fact, sufficient to sustain the order herein, could and would have been made by the Commission since, under many prior decisions of this Court, the Interstate Commerce Commission is the only body which can make affirmative findings of fact with respect to the issues involved in the proceedings before it.

The course followed by the Court is highly prejudicial to appellants because they have no opportunity to examine such missing findings to determine whether they are supported by the facts and the law.

IV.

The Commission made no findings and there was no evidence before it bridging the gap between its findings as to general conditions and average revenue required to pay operating expenses, taxes and a fair return on investment in connection with handling all traffic in the two territories, and its formula for dividing the revenue from the particular traffic involved.

This matter was presented in our briefs but was not discussed by the Court, being apparently considered

as not meriting separate discussion. We earnestly urge that it goes to one of the most essential features of the Commission's decision.

The Court holds (p. 9 of opinion):

> A sound basis for the rule or formula prescribing the divisions is essential to compliance with the Act.

The formula prescribed by the Commission is not supported by certain findings of fact which are essential to its validity, nor is there sufficient evidence in the record to support such required findings. All of the evidence discussed by the Commission in its report and every finding which it made was with reference to the average relative conditions or cost of handling *all traffic* plus taxes, like charges, and return on investment, on the railroads in the two groups. From these findings as to general costs and conditions, the Commission arrived at the conclusion that railroads in the Southwestern group require an average revenue per ton mile 17 to 20 per cent greater than do the Western Trunk Lines, to pay operating expenses, taxes and other like charges, and a fair return on investment.

The Commission made no findings of fact whatsoever which would bridge the gap: (a) Between these general findings, and the application of varying divisional bases in different portions of Western Trunk Line territory, (b) between these general findings and their application in connection with the movement of the particular traffic involved, nor (c) between these

general findings and the individual movements in the two territories under the joint rates, and the application of the formula to the individual movements under the joint rates

Perhaps a more detailed analysis of what steps the Commission took, and those omitted, in arriving at the formula or method for dividing the individual rates, will disclose more clearly the complete hiatus between the findings made and the formula adopted.

The Commission first proceeded to compare the two territories or regions as to increase in population and railroad mileage. It concluded, however, by saying that population was an unsatisfactory basis of comparison.

It next proceeded to discuss such matters as value of farm products in the two regions and the percentage of increase that had occurred in such production in each of those regions; the value of products of industries and the increase thereof; the higher level of rates in the Southwest; the length of the average hauls in the two regions and the difference in traffic density in the two regions, and in the various states incorporated in those regions. However, it drew no definite conclusion or basis of comparison from any of these matters. The Commission then stated (R. 78):

> The vital thing to ascertain here is obviously the relative cost of service in the two groups.

The Commission then discussed the relative cost of service as derived from the average freight operating expenses per ton mile of all traffic of Class I carriers operating within the two groups, and conclud-

ed that it cost somewhere in the neighborhood of 15 per cent more per ton mile on the average to haul freight in the Southwest than in Western Trunk Line territory, but it said that operating expenses do not include overhead charges and that (R. 79):

> A still better basis for comparison would obviously be the amount needed in each case to cover operating expenses, taxes and other like charges and a fair return on investment.

The Commission next computed the average revenue per ton per mile which would be required to yield the amount needed by the Class I carriers in each group to cover operating expenses, taxes and other like charges, and a fair return on investment in the movement of all freight traffic. It found (R. 82) that this would have required during the year 1923, a revenue of 12.08 mills per ton mile for the Western Trunk Lines and 14.67 mills for the Southwestern lines (if the Santa Fe and Rock Island were included in the statistics for both groups). The Commission concluded from these statistics that the cost of service including a fair return on investment was somewhere in the neighborhood of 17 to 20 per cent greater, per unit of service, in the Southwest than in the Western Trunk Line group, based on the averages of 1923 and 1924 operations in connection with *all freight traffic* (R. 83). The Commission said with reference to these figures (R. 83):

> These figures are, of course, open to the criticism that they are either based upon the operations of systems which extend in some instances beyond group boundaries or, in the case

> of the strictly group lines, upon an incomplete showing of group operations. However, there are reasons to believe that they are not unfair to defendants.

The Commission then made a summary of the evidence "so far as salient facts are concerned" (R. 85-6). In this summary it stated that the cost of operation per ton mile including all expenses, charges and a fair return on investment, in all probability does not average as much as 20 per cent higher in the Southwest than in the Western Trunk Line group (R. 86). Referring to the other findings, we find that they relate to the cost and other charges including return on investment on all traffic in the two groups. The court has laid stress upon the Commission's statements that the average conditions effecting cost of transportation in the two groups have changed, and are still growing more favorable to the Southwestern lines. The increases in population, industrial development and other changes in conditions are of no materiality unless they increase the traffic and the revenue of the carriers, therefore, such changes or improvements in so far as material to the proceeding before the Commission, were expressed and measured by the finding that the cost of service including taxes and like charges and a fair return on investment on all traffic was somewhere in the neighborhood of 20 per cent greater in the Southwest than in the Western Trunk Line group.

Here the Commission's findings of fact end. It made no further computations or findings which might constitute a basis for reducing the needed revenue

of the Southwestern respondents below the said revenue of 17 to 20 per cent greater per ton mile than that received by the Western Trunk Lines, nor for determining whether or not this relationship of the needed or "constructive" revenue per ton mile attributable to the particular traffic moving under the joint rates involved, was the same.

After having made these general findings, the Commission said that a proper readjustment would be accomplished by dividing the joint rates south and north of the gateways in proportion to assumed rates for the two hauls. The assumed rate for the distance covered by the haul south of the gateway was to be the first class rate for that distance under the present Southwestern scale (prescribed by the Commission in *Consolidated Southwestern Cases,* 123 I. C. C. 203, decided subsequent to the closing of the hearings in the Divisions case), and the assumed rate for the distance covered by the haul north of the gateway was to be 80 per cent of that first class rate in the case of traffic to or from points in Illinois and Wisconsin (in the second report, this percentage was changed to 75 per cent where the traffic moved through St. Louis), and 87 per cent of said first class rate for the distance hauled in Western Trunk Line territory in case of traffic to or from other points in Western Trunk Line group. In the case of traffic to or from points in official territory east of the Indiana-Illinois state line, the assumed rate used was to be 80 per cent of the said first class rate, minus 10c (changed to 15c in the

second report) because of the absence of originating or delivering service (R. 86-7).

It is evident from what is said by the Commission thereafter that these distinctions as to the different bases to be applied in connection with traffic moving to or from different portions of the Western Trunk Line region, were the result of the Commission's conclusion that the operating costs plus taxes and like charges and return on investment were less per ton mile in Illinois and Wisconsin than in the other portions of the Western Trunk Line region. But there are no findings by the Commission with reference to this feature and there is no evidence in the record before the Commission upon which either the Commission or this Court could enter a finding that the so-called constructive revenue needed in Illinois and Wisconsin is 80 (or 75) per cent of the constructive revenue needed within the entire Southwest; nor that the constructive revenue needed within the rest of the Western Trunk Line territory was 87 per cent of the constructive revenue needed in the entire Southwest; nor, what is more pertinent to the essential findings which the Commission would be required to make in this regard, were there any findings by the Commission, or any evidence upon which either the Commission or this Court could have found, the cost and other charges attributable (1) to traffic moving under the joint rates to or from Illinois and Wisconsin, nor (2) to the traffic moving to or from the remainder of Western Trunk Line territory. It is clear that such findings would be

necessary in order to bridge the gap between the finding as to the general conditions, and the constructive revenue needed in connection with the handling of all traffic in the two groups, on the one hand, and the specific conditions and the constructive revenue required in connection with the traffic under the joint rates, on the other hand. As stated, there were no such findings and there was no evidence upon which either the Commission or the Court could make such findings, since no evidence whatsoever was introduced with relation to the cost attributable to the handling of the particular traffic involved.

The Commission said in its original report (R. 88):

> It should be borne in mind that under the 80 per cent basis the assumed rates used south of the gateways are 25 per cent greater relatively than those used north thereof, and that under the 87 per cent basis they are 15 per cent greater.

and in its report on reconsideration the Commission made a further attempt to explain the use and propriety of the varying bases for divisions in the Western Trunk Line territory in the following manner (R. 104):

> From these figures we drew the general conclusion, which is not criticized, that the cost of service in the Southwest was somewhere in the neighborhood of 20 per cent greater, based on averages of 1923 and 1924 operations, and somewhere in the neighborhood of 17 per cent greater, based on 1924 operations. The actual figure which we used in arriving at our divisional basis was about 22.5 per cent, for we used 25 per cent excess for the Southwest on the traffic to and from Illinois and Wisconsin points and 15 per cent for

> the remainder of the traffic to and from western trunk line points, and the former appeared to be about three times the latter in volume.

It is possible that the Commission might have attained the result indicated, that is, have accorded to the Southwestern respondents divisions on the whole which would have yielded them 122.5 per cent more per ton mile under the joint rates involved than was yielded to the Western Trunk Lines under the prescribed divisions, if the Commission had based its formula upon a so-called constructive mileage prorate, that is, for example, by according to the Southwestern respondents divisions based upon factors arrived at by using 125 per cent of the distance hauled in Southwestern territory, and to the Western Trunk Lines, factors based upon 100 per cent of the distance hauled in Western Trunk Line territory, when the traffic moved to or from Illinois or Wisconsin.

But the Commission did not do this. It applied the various percentages, that is, the 100 per cent for Southwestern territory, and the 75, 80 or 87 per cent for the various portions of Western Trunk Line territory, to the first class Southwestern scale, in order to determine the factors of the participating carriers for dividing the joint rates applicable upon specific movements. Where the hauls in the two territories are of the same length, the results which the Commission has indicated, in the above quotations, should be accomplished, would in fact be brought about as to those individual movements; but where the length of the haul in one territory is greater than the length

of the haul in the other territory, the use of the Southwestern scale in the formula results in according to the Southwestern respondents widely varying percentages of the ton mile earnings accorded to the Western Trunk Lines. This is by reason of the fact that the average rate per 100 pounds, and the average revenue per ton mile, under the said Southwestern scale, decreases rapidly with increase in distance, as explained at page 33 of appellants' reply brief.

At pages 34 to 39, inclusive of appellant's reply brief, we have shown several specific examples of the effect of the use of the Southwestern rate scale in the formula or basis for the prescribed divisions, and for the sake of brevity we do not repeat those examples here.

Although the Commission made findings as to average conditions, it concluded by prescribing a formula to be applied in connection with the handling of the individual shipments moving under the joint rates involved which does not relate to averages or average conditions but which varies depending upon the length of haul on the individual shipments in the two territories. There is no explanation or finding of fact made by the Commission with reference to the adoption of this formula, except the statement in its report on reconsideration that this formula was merely a method or mechanism for arriving at divisions of the joint rates in conformity with the basis which the Commission had already found to be proper (R. 96-97). But the Commission makes no findings of fact bridging

the gap between this formula for dividing the specific rates and the other findings relating to average or group conditions.

It is possible, however, to glean from the Commission's report and the brief filed on its behalf the reasons for the use of the Southwestern scale and its formula, but not the facts which support its use, since there was no evidence in the record which would support any findings of fact justifying its use.

The Commission said (R. 64):

> a mileage prorate is by no means a perfect method of dividing joint rates * * * It results in the same ton mile revenue for each participating carrier, regardless of the length of haul and of the principle that, other things being equal, ton mile yields should decrease as distance increases. *New England Divisions*, 126 I. C. C. 579, 667. It is for this reason that rate prorates or block-mileage plans are often used in preference or that provision is made for minimum divisions of not less than 25 per cent, or some similar percentage.

The matter is further explained at pages 29-30 of the brief on behalf of the Commission, as follows:

> "Cost of service" is by no means the equivalent of "revenue per ton per mile." It is a universal rule that revenue per ton per mile, even upon a single commodity over the same railroad, varies with the length of haul, and for very good reasons. Cost of service is made up of two elements. Cost of terminal operations is one element, and it is constant, regardless of the length of haul. The other element is the cost of the line haul, which varies with distance. The combination of these two elements, one constant

> and the other variable, of course produces a total cost per ton per mile, which likewise varies with distance, but not in direct ratio.

However, the Commission made no findings of fact to the effect that the cost of handling the traffic involved or the constructive revenue needed by the two groups of carriers upon the traffic involved, varied with the length of haul; nor that the costs of or the constructive revenue needed in connection with the individual shipments moving under the joint rates varied with the length of the haul. Nor did the Commission find that if they did vary with the length of haul, they varied as the rate per mile or rate per ton mile under the first class Southwestern scale varies. Evidently, without very detailed evidence as to cost of operation, length of haul and other particulars with reference to the traffic under these joint rates, such a formula could not be worked out, and it is doubtful whether, even with such detailed information, it would be possible. It thus appears that the Commission failed to make essential findings of fact with reference to the use of the Southwestern scale in its formula for dividing the joint rates. Furthermore, there is no evidence in the record which would have supported those essential findings if they had been made. It is apparent that no "sound basis for the rule or formula prescribing the divisions" appears either from the Commission's findings of fact or from the evidence introduced before the Commission.

V.

The Court has misapprehended the effect of various statements in the reports of the Commission.

We consider the matters discussed under this heading as very important, since apparently the Court, in the statements hereinafter referred to, set forth some of the main considerations upon which it relied, as showing that it could safely be presumed that the Commission's order was fair and just.

1. *The Court erred in stating that* (p. 10) *"The Commission found that existing divisions give Southwestern lines over 30 per cent more than a mileage prorate." What the Commission found was that the Southwestern lines under existing divisions, receive 12 to 13 per cent more than they would under a mileage prorate."*

The Commission's finding is as follows (R. 63):

> These tables * * * show that defendants are receiving, on the average from all of the traffic, divisions which exceed what they would obtain under a mileage prorate by from 12 to 13 per cent. This showing, however, must be considered in connection with the fact that complainants received divisions on the same traffic which were less than they would have received under a mileage prorate by from 13 to 16 per cent.

The evidence showed conclusively that it is necessary for the Southwestern carriers to receive substantially more than a mileage prorate in order to secure the same return upon investment as is received by the Western Trunk Lines.

The entire level of rates, in the Southwestern territory, is on a higher level than the level of rates

in Western Trunk Line territory, and as stated, the Southwestern carriers must receive this higher level of rates in order to approximate the same return as is received by the Western Trunk Lines. This is apparent from an examination of the table in the report (R. 84) which shows that during the years from 1916 to 1925, inclusive, such higher level of rates gave the Southwestern lines only 4.30 per cent return on investment as compared with a return of 3.98 per cent received by the Western Trunk Lines. The level of rates in the Southwestern region is 25 per cent higher than in the Western Trunk Line territory. On this subject, the Commission found (R. 72):

> The general level of rates was somewhere in the neighborhood of 25 per cent higher in the Southwest than in Western Trunk Line territory.

The average cost of operation was also much higher in the Southwest than in Western Trunk Line territory. The Commission found on this subject that (R. 78):

> It cost somewhere in the neighborhood of 15 per cent more per ton mile to haul freight in the Southwest than in Western Trunk Line terrtory.

The Commission also found that in order that the Southwestern carriers might earn a fair return upon investment, they must receive 17 to 20 per cent more revenue per unit of service than did the Western Trunk Lines. The Commission on this subject found that (R. 83):

> The cost of service including a fair return on investment was somewhere in the neighborhood

> of 20 per cent greater in the Southwest than in the Western Trunk Line group, based on averages of 1923 and 1924 operations, and somewhere in the neighborhood of 17 per cent greater based on 1924 operations.

These figures established conclusively that it was necessary that the Southwestern lines should receive very substantially more than a mileage prorate in order to receive their just divisions from these joint rates. An excess of 12 to 13 per cent of a mileage prorate would not appear to be more than was necessary, judging by the figures as to the differences of level of rates in the two territories, and the relative average cost of operation and relative amount of revenue required to pay a fair return on investment. If the level of rates in the Western Trunk Line region is not high enough, as all the testimony of record indicates that it is not, the proper remedy was, not to take revenue from these Southwestern carriers which were receiving much less than a fair return, but to increase the rates of the Western Trunk Lines to a proper level.

2. *The statement that the amount of divisions, to-wit*: $3,000.00, *which is transferred by the Commission's order from the Southwestern carriers to the Western Trunk Line carriers, is "much less than one per cent of the total freight operating revenues of the Southwestern carriers" gives a wrong impression as to the effect of the Commission's order.*

The said sum of $3,000,000 is about ½ of 1% of the gross freight operating revenues of the Class I carriers in Southwestern territory including all freight revenues of the Santa Fe and Rock Island (R. 82) and about 2% of such net railway operating income (R. 80).

The Court, on p. 4 of its opinion, quotes the above statement from a similar statement made by the Commission in its report on reconsideration. We submit, however, that the above statement does not correctly measure the effect of the Commission's order in this divisions case. The Commission did not have the right to consider the entire revenues, of these two groups of carriers, from all operations, and to transfer a part of the entire gross revenues of certain Southwestern carriers to certain Western Trunk Line carriers. As already stated under another heading, the Commission's power is limited, in such a proceeding, to fixing just divisions of the revenue from the joint rates participated in by the Southwestern and Western Trunk line respondents. Consequently, the measure of the effect of the Commission's order is the amount of the Southwestern lines' income, from the said joint rates, which is taken. We turn to the statement (Petitioners' Ex. 10, R. 1226) of revenue of the Southwestern respondents from these joint rates during September, 1928. That exhibit shows that the revenue of the respondent Southwestern lines, from the joint traffic, was $3,320,756 for that month, or $39,849,072 per year. The sum of $3,000,000 is 7½ per cent of that amount.

The percentage of gross revenue taken, is however, not the correct measure of the effect of the Commission's order, since the said sum of $3,000,000 will be deducted from net railway operating income, inasmuch as all the service under the joint rates must still continue to be performed, and there will be no

saving through reduction of expenses. The only figures in the record, as to the relation of net railway operating income to gross income, is the average ratio from all operations and traffic, passenger and freight. This measure is, of course, not the accurate measure of the cost of operation, etc., with reference to this joint traffic. Taking this ratio for what it may be worth, however, we find that the ratio (shown on p. 2 of Western Trunk Lines' Ex. A-241, R. 922), "of the sum of railway operating expenses, railway tax accruals, uncollectible railway revenues, and equipment and joint facility rents to the railway operating revenue" from all traffic and operations of the Southwestern carriers, was, during the year 1925, 81.57 per cent. That percentage of the gross revenue of $39,849,072 is $32,504,888. Deducting the latter sum from the said gross revenue, there remains as the net railway operating income from the said traffic, the sum of $7,344,184, and the said sum of $3,000,000 is 40.8 per cent of the said sum of $7,344,184. If the cost of operation, taxes and other charges attributable to the traffic in question were only two-thirds of the average of such costs upon all traffic, there would still be taken more than 20 per cent of the net railway operating income of the Southwestern carriers, from the said joint traffic.

The above figures should convince the Court that the order in question does not affect the revenues of appellants "only incidentally," as was stated by the District Court (R. 1331).

In fact, as clearly appears from the record, the ultimate effect upon the revenues, of this divisional

proceeding, was all that the Western Trunk Lines were interested in.

Mr. Towner, attorney for the Western Trunk Lines, at the argument before the Commission (R. 1254), said:

> The Examiner finds * * * "No such convincing showing has been made as would justify affirmative action on the part of this Commission with respect to the divisions in the aggregate, but there is much reason to believe that a constructive revision of individual divisions by the carriers interested would be warranted."
>
> That, doubtless, would be a desirable thing to do, but as far as I am concerned, and my concern is to get more money for the railroads that I represent, that is purely academic. If the good and bad divisions balances that, there should be no change; that is a matter for the traffic men to take care of. They can fix that up themselves. What I am interested in is to get such a change in the divisions as will transfer from the Southern (Southwestern) to the Western Lines some of the money that the Southwestern is getting under the present division.

The above statement is confirmed by what the Commission said in its report. It said (R. 58-59):

> Complainants and defendants alike admit that the divisions in question conform to no systematic and consistent plan, but they are not particularly interested in the revision of individual divisions. What complainants seek and defendants oppose is primarily a finding that the former are entitled to substantially increased revenue in the aggregate out of the traffic under consideration, and a fixation of divisions appropriate to that end.

We again repeat, however that the plan adopted by the Commission operated to take revenue on account of all operations of respondents, under the guise of fixing divisions of joint rates covering a part of the traffic.

3. *Statement that existing divisions are upon no logical or consistent basis.*

The Court (p. 2 of opinion) quotes from the Commission's "salient facts" the statement that

> Existing divisions were established for the most part about 35 years ago and conform to no logical or consistent basis.

If the establishment of the divisions upon a logical and consistent basis constituted a legal reason for abrograting the divisions, it would appear naturally to follow that the new basis of divisions, in order to be logical and consistent must apply to all of the joint traffic between the Southwestern and Western Trunk Line territories, or that some good reason should be given for the omission of a substantial part of the traffic.

As we showed, however, the divisions prescribed by the Commission will apply to only 2/3 of the traffic under the said joint rates; the existing divisions will remain in force as to the balance. Consequently, the Commission's order, instead of producing a more "logical and consistent basis," will produce the opposite. As this Court said (p. 2 of opinion) the District Court found "that as the prescribed divisions did not apply to all joint rates between the two territories, confusion and large useless expenditures would

result." The confusion will necessarily continue, since there will continue to be two bases of divisions.

4. *The statement that "as to each carrier, operating and other conditions were shown and presumably considered by the Commission in deciding whether average or group conditions might appropriately be used"* (p. 9).

As we have already urged, we are entitled to know, through proper findings, what those operating and other conditions were. No findings could be drawn, in our judgment, which would reasonably sustain the Commission's order, for the reason that there is no evidence on which to base such findings.

5. *The statement that "other things being equal, divisions made on the mileage basis will be the same as those made on the basis of relative costs"* (p. 10 of opinion).

We are not sure that we understand the above statement, but obviously it would only be true if the relative costs were the same as to all carriers participating in transportation under the joint rates, or the "mileage basis" was a "constructive" mileage prorate adjusted in accordance with the variation in costs in the two territories. The statement, however, condemns the order of the Commission here under consideration. The Commission found that, based upon all operations in the two territories, the average cost of service per ton mile was 15 per cent greater in the Southwestern than in Western Trunk Line territory (R. 78); and, based upon average cost of operation per ton mile, including all expenses, charges and a fair return on investment, averages from 17 to 20 per cent

more in Southwestern territory (R. 83). It was shown by the application of the prescribed formula to the joint traffic moving during September, 1928, that the Commission's order accorded the appellants only 9 per cent more per ton mile than the Western Trunk Lines (Ex. 11, R. 1227), whereas under a "constructive" mileage prorate related to the costs as developed in the Commission's findings above referred to they would have received from 15 to 20 per cent more per ton mile than the Western Trunk Lines.

6. *The statement that "The fact that average conditions affecting cost of transportation in the two groups have changed and are still growing more favorable to the Southwestern lines tends to justify a reduction of their existing divisions"* (p. 10 of opinion).

If average conditions affecting cost of transportation in the two groups have changed and are still growing more favorable to the Southwestern lines, that fact in so far as it is material to the fixing of divisions, is measured, under the Commission's theory, by the relative amounts required to pay operating expenses, taxes and a fair return on investment. That is the way in which improved conditions affect the expenses and revenue of the railroads. The Commission's formula however, does not yield to the Southwestern carriers even the amount determined on that basis, since the Commission found that the Southwestern lines require 17 to 20 per cent more revenue on the average per unit of service and the formula yields to them only 9 per cent more revenue.

Moreover, we do not consider that the evidence of record shows that conditions in the Southwest have

grown more favorable than conditions in the Western Trunk Line territory.

In our judgment, the facts stated by the Commission simply reflected the growth of the region—a substantial part of which has been sparsely settled and undeveloped, in approaching a more normal condition. The comparison was between such a region and a much better developed region (with the exception of North Dakota and South Dakota, which cut very little figure in the case). There was really no presumption that the divisions originally established ever yielded to the Southwestern carriers a reasonable remuneration, for the reason that the Southwestern carriers have never received a reasonable return upon investment.

The facts with relation to the Southwestern carriers are fairly set forth by Professor Ripley in his report on *Consolidation of Railroads*, 63 I. C. C. 455, 616, where he says:

> Another general feature of the southwest-gulf region is that there are too many railroads to be supported by the available traffic. This is partly due to the well known activities of the railway promoter, who has found in this territory the last and a most inviting field for the practice of his art. There are more railways in fact than the country can probably support for many years ahead. This condition is more true in this region than anywhere else in the United States, and it is a considerable source of embarrassment. One hesitates to recommend the downright abandonment of a railroad line once constructed. Property values have been conditioned upon its operation, and manifest injustice may result from the withdrawal of transportation, but it is nevertheless true that many lines have been laid down for which there was never originally a long-time justification.

The table printed in the Commission's report (R. 84) shows that the condition of the Southwestern carriers from 1916 to 1925 had shown no appreciable improvement, and those were the statistics upon which the Commission based its report and order. The table also shows that there is not enough difference in the relative conditions of the two groups (even if that were a proper measure which we deny) to justify an order transferring revenue from one group to the other, since even a slight error in percentages would produce such a large error in the division of the revenue. The table shows that the condition of the Western Trunk Line group was considerably better than that of the Southwestern group in the year 1916; that conditions were substantially the same in the two groups in the years 1922 and 1923, and only slightly different in the years 1924 and 1925.

7. *The statement that "The average cost of service was apparently given much weight"* (p. 9 of opinion).

The only statistics with reference to cost of service were average costs of service of individual railroads, and groups, arising from all traffic and operations of such railroads and groups of railroads.

As we have already shown, there was no information in the record as to the cost of service of any particular carrier with respect to the joint traffic here in issue, and as we understand the holding of the Court on p. 9 of its opinion, such average cost of service would not be even *prima facie* evidence as to the cost of service with respect to the traffic handled under these joint rates.

VI.

For the reasons above set forth, the Court should either reverse the decree of the District Court or reverse and remand the case in order that the Commission may, in the light of the Court's decision, conduct further proceedings and make complete findings.

We hope that we have been able to convince the Court that the Commission's order should either be set aside in this case or that there should be some further investigation, in order that there may be even a reasonable assurance that a substantially correct result will be reached.

It may be that there should be a reargument, in order that the opposing parties may appear before the court and make a showing, if for example the appellees contend that there was evidence in the record showing cost of operation with respect to the traffic moving under the joint rates in issue here, fair rate of return upon the portion of the property devoted to such service, and other facts segregated to the traffic under these joint rates. We also feel that a reargument for the purpose of having more definitely and authoritatively determined by this Court the fundamental principles which govern in the matter of fixing divisions would be helpful to the railroads and to the Commission in the many matters which are now pending or in prospect before that body.

Upon the present record, however, we earnestly contend that the Commission's order is void because of lack of evidence, and because of disregard of the principles which have been laid down by this Court

with respect to proceedings under Section 15 (6) of the Act.

In the case of *Frank L. Smith, et al.* v. *Illinois Bell Telephone Company,* decided by this court on December 1, 1930, the court, because of a similar lack of evidence as to the value of property devoted to a particular service, remanded the case in order that additional testimony might be taken and necessary additional findings made. It appears to us that in view of the manner in which the instant proceeding was conducted by the Commission—with no clear cut definite issues as to the divisions or types of divisions which were alleged to be unreasonable, and with no showing at the hearings as to what divisions were proposed to be established—a similar order should be made in this case to that which was made in the said case of *Frank L. Smith, et al.* v. *Illinois Bell Telephone Company, supra.*

As we have shown, there was, if we understand the decisions of this Court aright, an entire lack of evidence upon matters which it was essential, under the provisions of Section 15 (6), should be established, in order that the Commission might enter a valid order. In our judgment also, the entire theory of the Commission in this case was, under the circumstances of the carriers involved, in conflict with the principles which this court has laid down in construing the provisions of Section 15 (6).

For the foregoing reasons it is respectfully urged that this petition for rehearing be granted.

Respectfully submitted,

F. H. Moore,

W. E. Davis,

E. T. Miller,

M. G. Roberts,

J. R. Bell,

G. H. Muckley,

H. H. Larimore,

C. S. Burg,

J. R. Turney,

Robert Thompson,
Counsel for Appellants.

Samuel W. Moore,
Of Counsel.

December 16, 1930.

Certificate of Counsel.

I, Frank H. Moore, counsel for the above named appellants, do hereby certify that the foregoing petition for a rehearing of this cause is presented in good faith and not for delay.

Frank H. Moore,
Counsel for Appellants.

APPENDIX A.

Sections of the Interstate Commerce Act which are referred to in petition for rehearing.

Section 15 (6): Whenever, after full hearing upon complaint or upon its own initiative, the Commission is of opinion that the divisions of joint rates, fares, or charges, applicable to the transportation of passengers or property, are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers parties thereto (whether agreed upon by such carriers, or any of them, or otherwise established), the Commission shall by order prescribe the just, reasonable, and equitable divisions thereof to be received by the several carriers, and in cases where the joint rate, fare, or charge was established pursuant to a finding or order of the Commission and the divisions thereof are found by it to have been unjust, unreasonable, or inequitable, or unduly preferential or prejudicial, the Commission may also by order determine what (for the period subsequently to the filing of the complaint or petition or the making of the order of investigation) would have been the just, reasonable, and equitable divisions thereof to be received by the several carriers, and require adjustment to be made in accordance therewith.

In so prescribing and determining the divisions of joint rates, fares and charges the Commission shall give due consideration, among other things, to the efficiency with which the carriers concerned are operated, the amount of revenue required to pay their respective operating expenses, taxes, and a fair return on their railway property held for and used in the service of transportation, and the importance to the public of the transportation services of such carriers and also whether any particular participating carrier is an originating, intermediate, or delivering line, and any other fact or circumstance which would ordinarily, without regard to the mileage haul, entitle one carrier to a greater or less proportion than another carrier of the joint rate, fare or charge.

Section 15a (2): In the exercise of its power to prescribe just and reasonable rates the Commission shall initiate, modify, establish or adjust such rates so that carriers as a whole (or as a whole in each of such rate groups or territories as the Commission may from time to time designate) will, under honest, efficient and economical management and reasonable expenditures for maintenance of way, structures and equipment, earn an aggregate annual net railway operating income equal, as nearly as may be, to a fair return upon the aggregate value of the railway property of such carriers held for and used in the

service of transportation: *Provided,* that the Commission shall have reasonable latitude to modify or adjust any particular rate which it may find to be unjust or unreasonable, and to prescribe different rates for different sections of the country.

Section 15a (6): If, under the provisions of this section, any carrier receives for any year a net railway operating income in excess of 6 per centum of the value of the railway property held for and used by it in the service of transportation, one-half of such excess shall be placed in a reserve fund established and maintained by such carrier, and the remaining one-half thereof shall, within the first four months following the close of the period for which such computation is made, be recoverable by and paid to the Commission for the purpose of establishing and maintaining a general railroad contingent fund as hereinafter described. For the purposes of this paragraph the value of the railway property and the net railway operating income of a group of carriers, which the Commission finds are under common control and management and are operated as a single system, shall be computed for the system as a whole irrespective of the separate ownership and accounting returns of the various parts of such system. In the case of any carrier which has accepted the provisions of Section 209 of this amendatory act the provisions of this paragraph shall not be

applicable to the income for any period prior to September 1, 1920. The value of such railway property shall be determined by the Commission in the manner provided in paragraph (4).

(U. S. Code, Title 49, Sections 15 and 15a.)

Sheet

WESTERN T
Exhibit

Chicago and North Western RAILWAY

RECAPITULATION

South Western Traffic **Direction** North bound **Via** Kansas City

Commodity Oil Month of JUNE 1924 Series A Through Waybilling

Terminal Line	Sheet No.	Commodity	Point of Origin: City	Origin: State	Destination: City	Destination: State	No. of Cars	Tonnage (Pounds)	South or West of Missouri River Junction: Revenue as Divided	Car Miles	Rev. Per Car Mile (cents)	Tons One Mile	Rev. Per Ton Mile (mills)	Rev. on Mileage Basis	North or East of Missouri River: Revenue as Divided	Car Miles	Revenue Per Car Mile (cents)	Tons One Mile
Kans.City Southern	1	Gas Oil	Shreveport	La.	Mayfair-Chgo	Ill.	1	39,526	$ 70.24	560	12.54	16,667	4.2	$ 89.80	$105.36	542	19.44	16,132
"	2	Fuel Oil	"	"	"	"	7	431,516	566.47	3920	14.45	120,824	4.7	646.67	706.50	3794	18.62	116,941
"	3	"	"	"	"	"	3	180,590	237.07	1680	14.11	50,565	4.7	270.63	295.67	1626	18.18	48,940
TOTAL CHICAGO (a)							11	671,632	$ 873.78	6160		188,056		$1006.50	$1107.53	5962		182,013
Kans.City Southern (c)	4	Gasoline	"	"	Marshfield	Wis.	1	53,427	$ 89.16	560	15.92	14,960	6.0	$ 105.80	$ 146.59	698	21.29	16,646
Gulf Texas & Western	5	"	Megargel	Tex.	Highwood	Ill.	1	53,778	124.24	594	20.92	15,972	7.8	110.91	96.25	586	16.42	15,756
"	6	"	"	"	Elgin	"	1	53,308	131.14	594	22.08	15,832	8.3	113.43	87.42	550	15.89	14,660
TOTAL ILLINOIS Excl. Chicago (b)							2	107,085	$ 255.38	1188		31,804		$ 224.34	$ 183.67	1136		30,416
Missouri Kans.Tex.of Tex.	7	C S Oil	Dallas	Tex.	Milwaukee	Wis.	1	36,659	121.89	509	23.95	9,329	13.1	77.49	52.24	635	8.23	11,639
Tex.& Ft.Smith	8	Lub Oil	Port Arthur	"	"	"	2	105,831	193.67	1578	12.27	41,750	4.6	238.69	250.62	1358	18.47	35,930
Gulf Texas & Western	9	Gasoline	Megargel	"	"	"	1	53,335	97.61	594	16.43	15,841	6.2	105.73	126.40	664	19.04	17,707
"	10	"	"	"	Green Bay	"	1	53,216	102.11	594	17.19	15,805	6.5	103.30	148.01	843	17.56	22,431
"	11	"	"	"	Kenosha	"	1	53,156	97.26	594	16.36	15,787	6.2	108.28	125.98	631	19.97	16,771
Tex.& Ft.Smith	12	Lub.Oil	Port Arthur	"	"	"	1	54,212	99.21	789	12.57	21,386	4.6	135.70	128.46	535	24.01	14,502
TOTAL WISCONSIN (c)							7	356,409	$ 711.77	4658		119,898		$ 769.19	$ 831.93	4666		118,980
Texas & Pacific (g)	13	Gasoline	Harrys	Tex.	Iron Mtn.	Mich.	1	52,140	$ 95.42	914	10.44	23,627	4.0	$ 156.97	$ 204.71	833	24.58	21,717
Galv.Har.& San.Ant. (e)	14	Lub.Oil	Sinco	Tex.	Lake View	Ia.	1	31,923	$ 65.90	804	8.20	12,833	5.1	$ 92.33	$ 60.24	295	20.42	4,709
Chgo.Rock Island& Gulf	15	Gasoline	No.Ft.Worth	Tex.	Bricelyn	Minn.	1	53,427	$ 104.61	588	17.79	15,708	6.7	125.77	133.14	523	25.46	13,971
Gulf Colo.& Santa Fe	16	"	"	"	Minneota	"	1	53,242	100.14	569	17.60	15,147	6.6	155.52	200.66	531	37.79	14,135
"	17	"	"	"	"	"	1	53,869	101.32	569	17.81	15,325	6.6	157.35	203.04	531	38.24	14,303
"	18	"	"	"	Redwood Falls	"	1	53,783	112.03	569	19.69	15,301	7.3	138.97	154.20	520	29.65	13,983
"	19	"	"	"	Waseca	"	2	107,032	206.57	1138	18.15	30,450	6.8	248.62	269.72	1044	25.83	27,935
TOTAL MINNESOTA (f)							6	321,353	$ 624.67	3433		91,931		$ 826.23	$ 960.76	3149		84,327
Chgo.Rock Isl.& Pac.(a)	20	Fuel Oil	Eldorado	Ark.	Chicago	Ill.	1	59,570	$ 84.35	894	9.43	26,628	3.2	$ 102.27	$ 91.36	643	14.21	19,152
El Dorado & Wesson	21	Road Oil	Eldorado	Ark.	Morrison	Ill.	3	225,864	333.15	2656	12.53	100,058	3.3	435.76	333.15	1404	23.73	52,552
"	22	"	"	"	"	"	4	257,817	380.76	3544	10.74	114,213	3.3	475.74	380.76	2116	18.00	68,192
"	23	"	Pearson	"	Galt	"	2	129,472	190.97	1772	10.78	57,356	3.3	241.01	190.96	1036	18.43	33,533
TOTAL ILLINOIS Excl. Chicago (b)							9	613,153	$ 904.90	7974		271,627		$1153.51	$ 904.91	4556		154,577
El Dorado & Wesson (e)	24	Road Oil	Eldorado	Ark.	Norway	Ia.	1	80,536	$ 121.77	673	18.09	27,100	4.5	$ 154.24	$ 105.73	311	33.35	12,523
Mo.Kans.Tex.of Tex.	25	Gasoline	Burkburnett	Tex.	North Ave.	Ill.	1	53,460	$ 105.74	554	19.09	14,806	7.1	93.03	100.08	675	14.87	17,969
"	26	Fuel Oil	"	"	Mayfair	"	1	78,140	168.31	554	30.38	20,813	8.1	150.63	124.74	524	23.81	19,687
TOTAL CHICAGO (a)							2	188,600	$ 274.05	1108		35,621		$ 243.66	$ 224.82	1197		37,676
Ft.Worth & Denver City	27	Gas	Wichita Falls	Tex.	Belvidere	Ill.	1	78,677	$ 136.47	575	23.73	22,620	6.0	$ 157.10	$ 155.00	491	31.57	19,315
"	28	F.Oil	"	"	Greenwd.Bvd.	"	1	59,777	106.76	575	18.47	17,275	6.2	92.60	99.47	710	14.01	21,220
TOTAL ILLINOIS Excl. Chicago (b)							2	138,454	243.23	1153		39,895		249.70	254.47	1201		40,535
Ft.Worth & Denver City	29	Gasoline	Wichita Falls	Tex.	Beloit	Wis.	1	53,440	90.30	566	15.95	15,123	6.0	110.21	126.65	549	23.07	14,666
"	30	"	"	"	Green Bay	"	1	53,262	89.97	566	15.90	15,073	6.0	112.43	152.86	657	23.27	17,456
"	31	Fuel Oil	"	"	West Allis	"	2	119,613	175.19	1156	15.15	34,568	5.1	203.65	240.42	1202	20.00	35,941
"	32	"	Electra	"	"	"	1	60,635	88.91	548	16.23	16,613	5.4	100.13	121.88	605	20.15	18,348
"	33	"	"	"	Oshkosh	"	1	59,866	79.46	551	14.42	16,493	4.8	96.40	149.51	759	19.70	22,715
"	34	Gasoline	Wichita Falls	"	Two Rivers	"	1	53,500	95.15	575	15.46	15,461	6.2	111.97	148.80	682	21.82	18,241
"	35	"	"	"	Wausau	"	1	53,731	95.60	575	16.63	15,448	6.2	104.14	149.44	778	19.21	20,902
"	36	"	"	"	Racine	"	1	56,640	140.35	566	24.89	16,029	8.8	143.32	134.24	520	25.82	14,728
"	37	"	"	"	Sheboygan	"	1	53,203	132.79	578	22.97	15,376	8.6	122.49	109.76	566	19.39	15,056
"	38	"	"	"	"	"	3	213,679	380.38	1734	21.94	61,810	6.2	499.33	594.85	1947	30.55	69,405
"	39	"	"	"	Two Rivers	"	1	53,381	91.27	578	15.79	15,427	5.9	98.82	138.12	847	17.96	22,606
"	40	"	"	"	New London	"	1	52,833	94.65	575	16.46	15,189	6.2	107.99	146.94	712	20.64	18,809
"	41	"	"	"	Milwaukee	"	2	119,546	211.11	1156	18.26	34,546	6.1	231.85	275.98	1274	21.66	38,076
"	42	"	"	"	"	"	6	346,684	589.43	3450	17.09	99,671	5.9	690.01	821.64	3606	22.79	104,175
"	43	"	"	"	"	"	11	486,535	980.85	6226	15.75	137,689	7.1	1216.66	1400.09	5968	23.46	131,855
"	44	"	"	"	Kenosha	"	1	53,196	89.85	575	15.63	15,293	5.9	108.51	126.07	569	22.16	15,135
"	45	"	"	"	Janesville	"	2	106,766	180.42	1132	15.94	30,221	6.0	233.79	279.79	1098	25.48	29,315
"	46	"	"	"	"	"	1	54,179	97.07	575	16.88	15,576	6.2	114.46	136.53	598	22.83	16,195
Mo.Kans.Tex.of Tex.	47	"	Burkburnett	"	Cuba City	"	1	53,401	123.35	554	22.26	14,792	8.3	104.32	114.28	706	16.14	16,904
"	48	"	"	"	Madison	"	1	53,830	124.34	554	22.44	14,910	8.3	113.06	115.20	620	18.58	16,668
"	49	"	"	"	Racine	"	1	53,348	185.23	554	22.84	14,778	8.3	104.86	100.85	528	16.06	16,755
"	50	"	Wichita Falls	"	Wausau	"	1	53,440	102.54	540	18.99	14,428	7.1	107.00	148.63	728	20.42	19,458
Texas & New Orleans	51	Sub.Oil	Clinton	"	Milwaukee	"	3	146,579	268.23	2406	11.15	58,778	4.6	343.51	347.39	1905	18.23	46,533
TOTAL WISCONSIN (c)							43	2811,509	$4484.94	26893		705,294		5,139.01	6093.90	27520		741,959
Ft.Worth & Denv.City(f)	52	Gasoline	Wichita Falls	Tex.	Kasson	Minn.	1	53,460	95.68	575	16.64	15,370	6.2	122.11	134.72	510	26.41	13,636
Missouri Pacific	53	Road Oil	Smackover	Ark.	Conrad	Ia.	1	80,886	130.39	604	21.59	24,428	5.3	162.24	120.36	329	36.56	13,306
"	54	"	"	"	Grand Mound	"	2	129,144	188.04	1206	15.56	39,001	4.8	227.45	173.57	712	24.38	22,986
"	55	"	"	"	Lisbon	"	1	56,192	81.84	604	13.55	16,970	4.8	103.24	75.54	317	23.83	8,907
"	56	"	"	"	Low Moor	"	1	64,006	93.19	604	15.43	19,330	4.8	95.35	86.03	532	16.17	17,026
"	57	"	"	"	Toledo	"	1	80,192	121.25	604	20.07	24,218	5.0	150.44	103.29	297	34.78	11,904
"	58	"	"	"	"	"	4	256,432	380.75	2416	16.17	78,046	5.0	496.60	332.86	1412	23.57	85,615
TOTAL IOWA (e)							10	668,856	1005.46	6040		201,993		1,195.32	891.65	3599		119,746
S																		

WESTERN TRUNK LINES
Exhibit Ex. A-41

Chicago and North Western RAILWAY

RECAPITULATION

South Western Traffic Direction North bound Via Kansas City

Commodity Oil Month of JUNE 1924 Series A Through Waybilling

Sheet No.	Commodity	Point of Origin: City	Origin: State	Destination: City	Destination: State	No. of Cars	Tonnage (Pounds)	South or West of Missouri River Junction: Revenue as Divided	Car Miles	Rev. Per Car Mile (cents)	Tons One Mile	Rev. Per Ton Mile (mills)	Rev. on Mileage Basis	North or East of Missouri River Junction: Revenue as Divided	Car Miles	Revenue Per Car Mile (cents)	Tons One Mile	Revenue Per Ton Mile (mills)	Revenue on Mileage Basis
1	Gas Oil	Shreveport	La.	Mayfair-Chgo	Ill.	1	59,526	$ 70.24	560	12.54	16,667	4.2	$ 89.80	$105.36	542	19.44	16,132	6.5	$ 86.40
2	Fuel Oil	"	"	"	"	7	431,516	566.47	3920	14.45	120,824	4.7	646.67	706.50	3794	18.62	116,941	6.0	626.30
3	"	"	"	"	"	3	180,590	237.07	1680	14.11	50,565	4.7	270.63	295.67	1626	18.18	46,940	6.0	252.11
						11	671,632	$ 873.78	6160		188,056		$1006.50	$1107.53	5962		182,013		$ 974.61
4	Gasoline	"	"	Marshfield	Wis.	1	53,427	$ 89.16	560	15.92	14,960	6.0	$ 105.80	$ 148.59	698	21.29	18,646	8.0	$ 131.95
5	"	Megargel	Tex.	Highwood	Ill.	1	53,778	124.24	594	20.92	15,972	7.8	110.91	96.25	586	16.42	15,756	6.1	109.58
6	"	"	"	Elgin	"	1	53,308	131.14	594	22.08	15,832	8.3	113.43	87.42	550	15.89	14,660	6.0	105.13
						2	107,085	$ 255.38	1188		31,804		$ 224.34	$ 183.67	1136		30,416		$ 214.71
ex. 7	C S Oil	Dallas	Tex.	Milwaukee	Wis.	1	36,659	121.89	509	23.95	9,389	13.1	77.49	58.24	635	8.23	11,639	4.5	96.64
8	Lub Oil	Port Arthur	"	"	"	2	105,831	193.67	1578	12.27	41,750	4.6	238.69	250.82	1358	18.47	35,930	7.0	205.80
9	Gasoline	Megargel	"	"	"	1	53,335	97.61	594	16.43	15,841	6.2	105.73	126.40	664	19.04	17,707	7.1	118.28
10	"	"	"	Green Bay	"	1	53,816	102.11	594	17.19	15,805	6.5	103.30	148.01	843	17.56	22,431	6.6	146.82
11	"	"	"	Kenosha	"	1	53,196	97.28	594	16.36	15,787	6.2	108.28	125.98	631	19.97	16,771	7.5	114.98
12	Lub.Oil	Port Arthur	"	"	"	1	54,212	99.21	789	12.57	21,386	4.6	135.70	128.48	535	24.01	14,502	8.9	91.59
						7	356,409	$ 711.77	4658		119,898		$ 769.19	$ 831.93	4666		118,980		$ 774.51
13	Gasoline	Harrys	Tex.	Iron Mtn.	Mich.	1	52,140	$ 95.42	914	10.44	23,627	4.0	$ 156.97	$ 204.71	833	24.58	21,717	9.4	$ 145.16
14	Lub.Oil	Sinco	Tex.	Lake View	Ia.	1	31,923	$ 65.90	804	8.20	12,833	5.1	$ 92.33	$ 60.24	295	20.42	4,709	12.8	$ 33.81
15	Gasoline	No.Ft.Worth	Tex.	Bricelyn	Minn.	1	53,427	$ 104.61	588	17.79	15,708	6.7	125.77	133.14	523	25.46	13,971	9.5	111.96
16	"	"	"	Minnesota	"	1	53,242	100.14	569	17.60	15,147	6.6	155.52	200.66	531	37.79	14,135	14.2	145.30
17	"	"	"	"	"	1	53,669	101.32	569	17.81	15,325	6.6	157.35	203.04	531	38.24	14,303	14.2	147.01
18	"	"	"	Redwood Falls	"	1	53,783	112.03	569	19.69	15,301	7.3	136.97	154.20	520	29.65	13,983	11.0	127.26
19	"	"	"	Waseca	"	2	107,032	206.57	1138	18.15	30,450	6.8	246.62	269.78	1014	26.63	27,335	9.7	227.67
						6	321,353	$ 624.67	3433		91,931		$ 686.25	$ 960.76	3149		84,327		$ 759.22
20	Fuel Oil	Eldorado	Ark.	Chicago	Ill.	1	59,570	$ 84.35	894	9.43	26,628	3.2	$ 102.27	$ 91.36	643	14.21	19,152	4.8	$ 73.46
21	Road Oil	Eldorado	Ark.	Morrison	Ill.	3	225,864	333.15	2656	12.53	100,058	3.3	435.76	333.15	1404	23.73	52,552	6.3	230.54
22	"	"	"	"	"	4	257,817	360.76	3544	10.74	114,213	3.3	475.74	380.78	2116	18.00	68,192	5.6	284.82
23	"	Pearson	"	Galt	"	2	189,472	190.97	1772	10.78	57,356	3.3	241.01	190.96	1036	18.43	33,535	5.7	140.94
						9	613,153	$ 904.90	7974		271,627		$1153.51	$ 904.51	4956		154,577		$ 656.30
24	Road Oil	Eldorado	Ark.	Norway	Ia.	1	60,536	$ 121.77	673	18.09	27,100	4.5	$ 154.24	$ 105.73	311	33.35	12,523	8.3	$ 71.26
25	Gasoline	Burkburnett	Tex.	North Ave.	Ill.	1	53,460	$ 105.74	554	19.09	14,806	7.1	93.03	100.06	675	14.87	17,969	5.6	112.79
26	Fuel Oil	"	"	Mayfair	"	1	78,140	168.31	554	30.38	20,813	8.1	150.63	128.76	522	23.61	19,687	6.3	142.42
						2	138,600	$ 274.05	1108		35,621		$ 243.66	$ 228.82	1197		37,676		$ 255.21
27	Gas	Wichita Falls	Tex.	Belvidere	Ill.	1	76,677	$ 136.47	575	23.73	22,620	6.0	$ 157.10	$ 155.00	491	31.57	19,315	8.0	$ 134.37
28	F.Oil	"	"	Greenwd.Bvd.	"	1	59,777	106.76	578	18.47	17,275	6.2	92.60	99.47	710	14.01	21,220	4.7	113.63
						2	136,454	243.23	1153		39,895		249.70	254.47	1201		40,535		248.00
29	Gasoline	Wichita Falls	Tex.	Beloit	Wis.	1	53,440	90.30	566	15.95	15,123	6.0	110.21	126.65	549	23.07	14,669	8.6	106.74
30	"	"	"	Green Bay	"	1	53,262	89.97	566	15.90	15,073	6.0	112.43	152.86	657	23.27	17,496	8.7	130.40
31	Fuel Oil	"	"	West Allis	"	2	119,613	175.19	1156	15.15	34,568	5.1	203.65	240.42	1202	20.00	33,943	6.7	211.96
32	"	Electra	"	"	"	1	60,633	88.91	548	16.23	16,613	5.4	100.13	121.88	605	20.15	18,342	6.6	110.66
33	"	"	"	Oshkosh	"	1	59,866	79.46	551	14.42	16,893	4.8	96.40	149.51	759	19.70	22,719	6.6	132.57
34	Gasoline	Wichita Falls	"	Two Rivers	"	1	53,500	95.15	578	16.46	15,461	6.2	111.97	148.80	682	21.82	18,243	8.2	131.98
35	"	"	"	Wausau	"	1	53,731	95.60	575	16.63	15,448	6.2	104.14	149.44	778	19.21	20,901	7.2	140.90
36	"	"	"	Racine	"	1	56,640	140.35	566	24.89	16,089	8.8	143.32	134.24	520	25.82	14,726	9.1	131.77
37	"	"	"	Sheboygan	"	1	53,203	132.79	578	22.97	15,376	8.6	122.89	109.76	566	19.39	15,056	7.3	130.06
38	"	"	"	"	"	3	213,879	380.36	1734	21.94	61,810	6.2	499.33	504.85	1947	30.55	69,404	8.6	545.30
39	"	"	"	Two Rivers	"	1	53,381	91.27	578	15.79	15,427	5.9	98.82	152.12	847	17.96	22,606	6.7	144.57
40	"	"	"	New London	"	1	52,833	94.65	575	16.46	15,169	6.2	107.99	146.94	712	20.64	18,808	7.8	133.60
41	"	"	"	Milwaukee	"	2	119,946	211.11	1156	18.26	34,546	6.1	231.85	275.98	1274	21.66	38,076	7.2	259.24
42	"	"	"	"	"	6	346,681	589.43	3450	17.09	99,671	5.9	690.01	821.64	3606	22.79	104,175	7.9	721.06
43	"	"	"	"	"	11	486,535	980.65	6226	15.75	137,689	7.1	1216.66	1400.05	5968	23.46	131,851	10.6	1164.28
44	"	"	"	Kenosha	"	1	53,196	89.85	575	15.63	15,293	5.9	108.61	126.07	549	22.15	15,134	8.3	107.51
45	"	"	"	Janesville	"	2	106,788	160.42	1132	15.94	30,221	6.0	233.79	279.79	1098	25.48	29,313	9.5	226.42
46	"	"	"	"	"	1	54,179	97.07	575	16.88	15,576	6.2	114.46	136.53	598	22.83	16,199	8.4	119.14
47	"	Burkburnett	"	Cuba City	"	1	53,401	123.35	594	22.26	14,792	8.3	104.32	114.28	706	16.14	18,904	6.0	133.32
48	"	"	"	Madison	"	1	53,830	124.34	594	22.44	14,910	8.3	113.06	115.80	620	18.58	16,647	6.9	126.48
49	"	"	"	Racine	"	1	53,348	125.23	594	22.24	14,778	8.3	104.86	100.85	628	16.06	16,751	6.0	119.80
50	"	Wichita Falls	"	Wausau	"	1	53,440	102.54	540	18.99	14,428	7.1	107.00	146.63	728	20.42	19,452	7.6	144.17
51	Rub.Oil	Clinton	"	Milwaukee	"	3	146,579	268.23	2406	11.15	58,778	4.6	343.51	347.39	1905	18.23	46,239	7.5	272.11
						43	2811,509	$4044.94	25893		705,294		5,139.01	6693.90	27520		741,598		5989.83
52	Gasoline	Wichita Falls	Tex.	Kasson	Minn.	1	53,460	95.68	575	16.64	15,370	6.2	122.11	134.72	510	26.41	13,632	9.9	106.29
53	Road Oil	Hoackover	Ark.	Conrad	Ia.	1	80,866	130.39	604	21.59	24,428	5.3	162.24	120.36	329	36.56	13,306	9.0	86.51
54	"	"	"	Grand Mound	"	2	129,144	188.04	1208	15.56	39,001	4.8	227.45	173.57	712	24.38	22,988	7.6	134.16
55	"	"	"	Lisbon	"	1	56,192	81.84	604	13.55	16,970	4.8	105.24	75.54	317	23.83	8,907	8.5	54.14
56	"	"	"	Low Moor	"	1	64,006	93.19	604	15.43	19,330	4.8	99.55	86.03	532	16.17	17,026	5.1	83.87
57	"	"	"	Toledo	"	1	80,192	121.85	604	20.07	24,218	5.0	150.44	103.29	297	34.78	11,906	8.7	74.10
58	"	"	"	"	"	4	256,432	380.75	2416	16.17	78,046	5.0	456.60	332.66	1412	23.57	85,615	7.3	267.01
						10	668,896	$1005.46	6040		201,993		1,195.32	891.65	3599		119,748		701.79

Chgo.Rock Island Gulf	15	Gasoline	No.Ft.Worth	Tex.	Brielyn	Minn.	1	55,427	$ 109.51	569	17.79	15,706	6.7	125.77	155.14	585	27.08	14,[illegible]
Gulf Colo.& Santa Fe	16	"	"	"	Minneota	"	1	53,842	100.14	569	17.60	15,147	6.6	155.52	200.64	531	37.79	14,13
"	17	"	"	"	"	"	1	55,869	101.32	569	17.81	15,325	6.6	157.35	203.04	531	38.24	14,3[illegible]
"	18	"	"	"	Redwood Falls	"	1	53,783	112.03	569	19.69	15,301	7.3	138.97	154.20	520	29.65	13,9[illegible]
"	19	"	"	"	Waseca	"	2	107,032	206.57	1138	18.15	30,450	6.8	248.62	269.72	1044	25.83	27,93
TOTAL MINNESOTA (f)							6	321,353	$ 634.67	3433		91,931		$ 826.25	$ 960.76	3149		84,32
Chgo.Rock Isl.& Pac.(a)	20	Fuel Oil	Eldorado	Ark.	Chicago	Ill.	1	59,570	$ 84.35	894	9.43	26,628	3.2	$ 102.27	$ 91.38	643	14.21	19,15
El Dorado & Wesson	21	Road Oil	Eldorado	Ark.	Harrison	Ill.	3	225,864	333.15	2656	12.53	100,056	3.3	435.76	333.15	1404	23.73	52,59
"	22	"	"	"	"	"	4	257,617	360.76	3544	10.74	114,213	3.3	475.74	380.78	2116	18.00	68,15
"	23	"	Pearson	"	Galt	"	2	189,472	190.97	1772	10.78	57,356	3.3	241.01	190.98	1036	18.43	33,53
TOTAL ILLINOIS Excl. Chicago (b)							9	613,153	$ 908.90	7974		271,627		$1153.51	$ 904.91	4556		154,57
El Dorado & Wesson (a)	24	Road Oil	Eldorado	Ark.	Norway	Ia.	1	60,536	$ 121.77	673	18.09	27,100	4.5	$ 154.24	$ 105.73	311	33.35	12,52
Mo.Kans.Tex.of Tex.	25	Gasoline	Burkburnett	Tex.	North Ave.	Ill.	1	53,460	$ 105.74	554	19.09	14,606	7.1	93.03	100.08	675	14.87	17,95
"	26	Fuel Oil	"	"	Mayfair	"	1	78,140	166.31	554	30.56	20,613	8.1	150.63	126.74	528	23.61	19,6[illegible]
TOTAL CHICAGO (a)							2	188,600	$ 274.05	1108		35,621		$ 243.66	$ 226.82	1197		37,67
Ft.Worth & Denver City	27	Gas	Wichita Falls	Tex.	Belvidere	Ill.	1	78,677	$ 136.47	575	23.73	22,628	6.3	$ 157.10	$ 155.00	491	31.57	13,33
"	28	F.Oil	"	"	Greenwd.Bvg.	"	1	59,777	106.76	575	18.47	17,275	6.2	92.60	99.47	710	14.01	21,2[illegible]
TOTAL ILLINOIS Excl. Chicago (b)							2	138,454	243.23	1153		39,895		249.70	254.47	1201		40,5[illegible]
Ft.Worth & Denver City	29	Gasoline	Wichita Falls	Tex.	Beloit	Wis.	1	53,440	90.30	566	15.95	15,123	6.0	110.21	126.65	549	23.07	14,66
"	30	"	"	"	Green Bay	"	1	53,862	89.97	566	15.90	15,073	6.0	118.43	152.86	657	23.27	17,4[illegible]
"	31	Fuel Oil	"	"	West Allis	"	2	119,613	175.19	1156	15.15	34,566	5.1	203.65	260.42	1202	20.00	33,9[illegible]
"	32	"	Electra	"	"	"	1	60,635	88.91	548	16.23	16,613	5.4	100.13	121.88	605	20.15	18,3[illegible]
"	33	"	"	"	Oshkosh	"	1	79,866	79.86	551	14.42	16,493	4.8	96.40	149.51	749	19.70	22,7[illegible]
"	34	Gasoline	Wichita Falls	"	Two Rivers	"	1	53,500	95.15	578	15.36	15,451	6.2	111.97	148.80	682	21.82	18,2[illegible]
"	35	"	"	"	Wausau	"	1	53,731	95.60	575	16.63	15,448	6.2	104.14	149.44	778	19.21	20,9[illegible]
"	36	"	"	"	Racine	"	1	56,640	140.55	566	24.69	16,029	6.8	143.52	134.24	520	25.62	14,7[illegible]
"	37	"	"	"	Sheboygan	"	1	53,203	132.79	576	22.97	15,376	6.6	122.49	109.76	566	19.39	15,0[illegible]
"	38	"	"	"	"	"	3	213,879	380.98	1734	21.94	61,810	6.2	499.33	594.85	1947	30.55	60,4[illegible]
"	39	"	"	"	Two Rivers	"	1	55,381	91.27	578	15.79	15,427	5.9	98.82	152.12	847	17.96	22,6[illegible]
"	40	"	"	"	New London	"	1	52,833	94.65	575	16.46	15,189	6.2	107.99	146.94	712	20.64	16,8[illegible]
"	41	"	"	"	Milwaukee	"	2	119,546	211.11	1156	18.26	34,546	6.1	251.85	275.98	1274	21.66	38,0[illegible]
"	42	"	"	"	"	"	6	346,684	589.43	3450	17.09	99,671	5.9	690.01	821.64	3606	22.79	104,1[illegible]
"	43	"	"	"	"	"	11	486,535	980.65	6226	15.75	137,689	7.1	1216.66	1400.05	5968	23.46	131,6[illegible]
"	44	"	"	"	Kenosha	"	1	55,196	89.85	575	15.65	15,293	5.9	108.61	126.07	509	22.15	15,1[illegible]
"	45	"	"	"	Janesville	"	2	106,786	180.42	1132	15.94	30,221	6.0	233.79	279.79	1098	25.46	29,3[illegible]
"	46	"	"	"	"	"	1	54,179	97.07	575	16.88	15,576	6.2	114.46	136.53	598	22.85	16,1[illegible]
Mo.Kans.Tex.of Tex.	47	"	Burkburnett	"	Cuba City	"	1	53,401	123.35	554	22.26	14,792	8.3	104.32	114.28	708	16.14	16,9[illegible]
"	48	"	"	"	Madison	"	1	53,830	124.34	554	22.44	14,910	8.3	113.06	115.80	620	18.58	16,6[illegible]
"	49	"	"	"	Racine	"	1	55,348	125.23	554	22.594	14,778	8.5	104.86	100.85	628	16.06	16,7[illegible]
"	50	"	Wichita Falls	"	Wausau	"	1	53,440	102.54	540	18.99	14,428	7.1	107.00	146.63	728	20.42	19,4[illegible]
Texas & New Orleans	51	Fuel Oil	Clinton	"	Milwaukee	"	3	146,579	268.23	2406	11.15	58,778	4.6	343.51	347.39	1909	18.23	46,5[illegible]
TOTAL WISCONSIN (c)							43	2811,509	$4444.94	26293		703,294		5,139.01	6095.90	27580		741,9[illegible]
Ft.Worth & Denv.City(f)	52	Gasoline	Wichita Falls	Tex.	Kasson	Minn.	1	53,460	95.68	575	16.64	15,370	6.2	122.11	134.72	510	26.41	13,6[illegible]
Missouri Pacific	53	Road Oil	Smackover	Ark.	Conrad	Ia.	1	80,866	130.39	604	21.59	24,428	5.3	162.24	120.36	329	36.56	13,30
"	54	"	"	"	Grand Mound	"	2	129,144	188.04	1206	15.56	39,001	4.8	227.45	173.57	712	24.38	22,9[illegible]
"	55	"	"	"	Lisbon	"	1	56,192	81.84	604	13.55	16,970	4.8	105.24	75.54	317	23.83	8,50
"	56	"	"	"	Low Moor	"	1	64,006	93.19	604	15.43	19,330	4.8	95.35	86.03	532	16.17	17,02
"	57	"	"	"	Toledo	"	1	80,192	121.25	604	20.07	24,218	5.0	150.44	103.29	297	34.78	11,90
"	58	"	"	"	"	"	4	256,432	380.75	2416	16.17	78,246	5.0	496.69	332.86	1412	23.57	45,8[illegible]
TOTAL IOWA (e)							10	666,856	$1005.46	6040		201,993		1,199.32	891.65	3599		119,7[illegible]
Missouri Pacific (c)	59	Road Oil	Smackover	Ark.	Barneveld	Wis.	1	79,866	$ 123.03	604	20.37	24,126	5.1	164.24	164.54	527	35.02	21,05
GRAND TOTAL							104	5,827,995	$10013.49	63031		1,628,963		$11705.42	$12361.57	56803		1,621,6[illegible]

SUMMARY BY TERMINATING STATES

ILLINOIS (a)	1- 3	11	671,632	$ 873.78	6160	188,056	$ 1,006.50	$ 1,107.53	5962	182,
	20	1	59,570	84.35	894	26,628	102.27	91.38	643	19,
	25-26	2	128,600	274.05	1108	35,621	243.66	226.82	1197	37,
TOTAL CHICAGO,ILL. (a)		14	859,802	1232.18	8162	250,305	1,352.43	1,425.73	7802	238,
ILLINOIS (b)	5- 6	2	107,065	295.36	1186	31,804	224.34	183.67	1136	30,
	21-23	9	613,153	904.90	7974	271,627	1,153.51	904.91	4556	154,
	27-28	2	138,454	243.23	1153	39,895	249.70	254.47	1201	40,
TOTAL ILLINOIS Excl. Chicago (b)		13	858,692	1403.51	10313	343,326	1,627.55	1,343.05	6893	225,
WISCONSIN (c)	4	1	53,427	89.16	560	14,960	105.80	148.59	698	18,
	7-12	7	396,403	711.77	4658	119,898	769.19	831.93	4666	116,
	29-51	43	2,411,509	4444.94	26293	703,294	5,139.01	6,095.90	27580	741,
	59	1	796.88	123.03	604	24,126	164.24	164.54	527	21,
TOTAL WISCONSIN (c)		56	2,901,253	5368.90	32115	862,278	6,178.24	7,298.96	33411	900,
IOWA (e)	14	1	31,923	65.90	804	12,853	92.33	60.84	295	4,
	24	1	80,536	121.77	673	27,100	154.24	103.73	311	12,
	53-56	10	668,856	1005.46	6040	201,993	1,199.32	891.65	3599	119,
TOTAL IOWA (e)		12	781,315	1193.13	7517	241,986	1,441.89	1,055.62	4305	136,
MINNESOTA (f)	15-19	6	321,353	624.67	3433	91,931	826.25	960.76	3149	84,
	52	1	53,460	95.68	575	15,370	122.11	134.72	510	13,
TOTAL IOWA (f)		7	374,813	720.35	4008	107,301	948.36	1,095.48	3659	97,
MICHIGAN (g)	13	1	52,140	95.42	914	25,827	156.97	804.71	833	21,
TOTAL SUMMARY		104	5,827,995	$10013.49	63031	1,628,963	$ 11,705.42	$12,361.57	56803	1,621,

Chgo.Rock Isl.& Pac.(a)	20	Fuel Oil	Eldorado	Ark.	Chicago	Ill.	1	55,910	$ 84.55	894	9.45	28,628	5.2	$ 102.27	$ 91.58	849	
El Dorado & Wesson	21	Road Oil	Eldorado	Ark.	Morrison	Ill.	3	225,864	333.15	2658	12.53	100,058	3.3	435.76	333.15	1404	
"	22	"	"	"	"	"	4	257,617	360.78	3544	10.74	114,213	3.3	475.74	360.78	2116	
"	25	"	Pearson	"	Galt	"	2	189,472	190.97	1772	10.78	57,356	3.3	241.01	190.98	1036	
TOTAL ILLINOIS Excl. Chicago (b)							9	613,153	$ 904.90	7974		271,627		$1153.51	$ 904.91	4556	
El Dorado & Wesson (e)	24	Road Oil	Eldorado	Ark.	Norway	Ia.	1	80,536	$ 121.77	673	18.09	27,100	4.5	$ 154.24	$ 105.73	311	
Mo.Kans.Tex.of Tex.	25	Gasoline	Burkburnett	Tex.	North Ave.	Ill.	1	53,460	$ 105.74	554	19.09	14,808	7.1	93.03	100.08	673	
"	26	Fuel Oil	"	"	Mayfair	"	1	78,140	168.31	554	30.36	20,813	8.1	150.63	128.78	524	
TOTAL CHICAGO (a)							2	131,600	$ 274.05	1108		35,621		$ 243.66	$ 228.82	1197	
Ft.Worth & Denver City	27	Gas	Wichita Falls	Tex.	Belvidere	Ill.	1	76,677	$ 136.47	575	23.73	22,620	6.0	$ 157.10	$ 155.00	491	
"	28	F.Oil	"	"	Greenwd.Pvt.	"	1	59,777	106.76	575	18.47	17,275	6.2	92.60	99.47	710	
TOTAL ILLINOIS Excl. Chicago (b)							2	136,454	243.23	1153		39,895		249.70	254.47	1201	
Ft.Worth & Denver City	29	Gasoline	Wichita Falls	Tex.	Beloit	Wis.	1	53,440	90.30	566	19.95	15,123	6.0	110.21	126.65	549	
"	30	"	"	"	Green Bay	"	1	53,262	89.97	566	19.90	15,073	6.0	112.43	152.86	657	
"	31	Fuel Oil	"	"	West Allis	"	2	119,613	175.19	1156	15.15	34,568	5.1	203.65	240.42	1202	
"	32	"	Electra	"	"	"	1	60,632	88.81	548	16.23	16,613	5.4	100.13	121.88	605	
"	33	"	"	"	Oshkosh	"	1	57,868	79.46	551	14.42	16,493	4.8	96.40	149.51	769	
"	34	Gasoline	Wichita Falls	"	Two Rivers	"	1	53,500	93.15	578	16.46	15,461	6.2	111.97	148.80	682	
"	35	"	"	"	Wausau	"	1	53,731	92.60	575	16.63	15,448	6.2	104.14	149.44	778	
"	36	"	"	"	Racine	"	1	96,640	140.35	566	24.89	16,029	8.8	143.32	134.24	520	
"	37	"	"	"	Sheboygan	"	1	53,803	132.79	578	22.97	15,376	8.6	122.49	109.76	566	
"	38	"	"	"	"	"	3	213,879	380.96	1734	21.94	61,810	6.2	499.33	594.85	1947	
"	39	"	"	"	Two Rivers	"	1	53,581	91.27	578	15.79	15,427	5.9	98.82	152.12	847	
"	40	"	"	"	New London	"	1	52,833	94.65	575	16.46	15,189	6.2	107.99	146.94	712	
"	41	"	"	"	Milwaukee	"	2	119,546	211.11	1156	18.26	34,348	6.1	231.85	275.98	1274	
"	42	"	"	"	"	"	6	346,664	589.43	3450	17.09	99,671	5.9	690.01	821.64	3606	
"	43	"	"	"	"	"	11	486,535	980.85	6226	15.75	137,689	7.1	1216.66	1400.09	5968	
"	44	"	"	"	Kenosha	"	1	53,196	89.85	575	15.85	15,295	5.9	108.61	126.07	589	
"	45	"	"	"	Janesville	"	2	106,786	160.42	1132	15.94	30,221	6.0	233.79	279.79	1096	
"	46	"	"	"	"	"	1	54,179	97.07	575	16.88	15,576	6.2	114.46	136.53	598	
Mo.Kans.Tex.of Tex.	47	"	Burkburnett	"	Cuba City	"	1	53,401	123.35	554	22.26	14,792	8.3	104.32	114.28	708	
"	48	"	"	"	Madison	"	1	53,830	124.34	554	22.44	14,910	8.3	113.06	115.80	680	
"	49	"	"	"	Racine	"	1	53,348	125.25	554	22.84	14,778	8.5	104.86	100.85	628	
"	50	"	Wichita Falls	"	Wausau	"	1	53,440	102.54	540	18.99	14,428	7.1	107.00	146.63	728	
Texas & New Orleans	51	Sub.Oil	Clinton	"	Milwaukee	"	3	146,579	268.83	2406	11.15	58,776	4.6	343.51	347.39	1905	
TOTAL WISCONSIN (c)							43	2411,509	4444.94	26293		703,294		5,139.01	6095.90	27520	
Ft.Worth & Denv.City(f)	52	Gasoline	Wichita Falls	Tex.	Kasson	Minn.	1	53,460	95.68	575	16.64	15,370	6.2	122.11	134.78	510	
Missouri Pacific	53	Road Oil	Smackover	Ark.	Conrad	Ia.	1	80,866	130.39	604	21.59	24,426	5.3	162.24	120.36	329	
"	54	"	"	"	Grand Mound	"	2	129,144	188.04	1208	15.56	39,001	4.8	227.45	173.57	712	
"	55	"	"	"	Lisbon	"	1	56,192	81.84	604	13.55	16,970	4.8	103.24	75.54	317	
"	56	"	"	"	Low Moor	"	1	64,006	93.19	604	15.43	19,330	4.8	95.35	86.03	332	
"	57	"	"	"	Toledo	"	1	60,192	121.85	604	20.07	24,218	5.0	150.44	103.29	297	
"	58	"	"	"	"	"	4	256,432	380.75	2416	16.17	78,046	5.0	456.69	332.86	1412	
TOTAL IOWA (e)							10	668,836	1005.46	6040		201,993		1,195.32	891.65	3599	
Missouri Pacific (e)	59	Road Oil	Smackover	Ark.	Barneveld	Wis.	1	79,866	123.03	604	20.37	24,126	5.1	164.24	164.54	527	
GRAND TOTAL							104	5,827,995	10013.49	63031		1,828,963		$11705.42	12361.57	56803	
SUMMARY BY TERMINATING STATES																	
ILLINOIS (a)	1- 3						11	671,632	$ 873.78	6160		188,056		$ 1,006.50	$ 1,107.53	596	
	20						1	59,570	84.35	894		26,628		102.27	91.58	849	
	25-26						2	128,600	274.05	1108		35,621		243.66	224.82	1197	
TOTAL CHICAGO, ILL. (a)							14	859,802	1232.18	8162		250,305		1,352.43	1,425.73	1803	
ILLINOIS (b)	5- 6						2	107,065	295.36	1188		31,804		224.34	185.67	1134	
	21-23						9	613,153	904.90	7974		271,627		1,153.51	904.91	4556	
	27-28						2	136,454	243.23	1153		39,895		249.70	254.47	1201	
TOTAL ILLINOIS Excl. Chicago (b)							13	856,692	1403.51	10315		343,326		1,627.55	1,345.05	6891	
WISCONSIN (c)	4						1	53,427	89.16	560		14,960		105.80	148.59	696	
	7-12						7	356,403	711.77	4656		119,898		769.19	831.93	4660	
	29-51						48	2,411,509	4444.94	26293		703,294		5,139.01	6,095.90	27528	
	59						1	796.88	123.03	604		24,126		164.24	164.54	527	
TOTAL WISCONSIN (c)							56	2,901,253	5368.90	32113		862,278		6,178.24	7,288.96	33411	
IOWA (e)	14						1	31,925	69.90	804		12,853		92.33	60.84	29	
	24						1	80,536	121.77	673		27,100		154.24	103.73	311	
	53-58						10	668,836	1005.46	6040		201,993		1,195.32	891.65	3599	
TOTAL IOWA (e)							12	781,317	1195.13	7517		241,946		1,441.89	1,055.62	4239	
MINNESOTA (f)	15-19						6	321,353	624.67	3433		91,951		826.23	960.78	3145	
	52						1	53,460	95.68	575		15,370		122.11	134.78	510	
TOTAL IOWA (f)							7	374,813	720.35	4008		107,321		948.34	1,095.56	3655	
MICHIGAN (g)	13						1	52,140	95.42	914		25,827		156.97	804.71	814	
TOTAL SUMMARY							104	5,827,995	10013.49	63031		1,828,963		$ 11,705.42	12,361.57	56803	

RECAPITULATION - VIA KANSAS CITY

To and From	Commodity	Cars	Tons	Ton Miles North	Ton Miles South	Revenue North	Revenue South	Average Haul Per Ton North	Average Haul Per Ton South	P Dolla North
MISSOURI	Lumber	12	348.0	104,120	116,091	995.10	1,462.62	299	334	82.93
	Other Carload Freight	268	3,951.5	1,504,015	641,436	20,397.10	19,892.61	381	162	76.11
	TOTAL	280	4,299.5	1,608,135	757,527	21,392.20	21,355.23	374	176	76.40
ARKANSAS	Lumber	56	1,492.2	892,005	912,219	4,678.02	6,604.37	397	611	83.54
	Other Carload Freight	64	817.7	339,363	330,875	4,503.82	7,554.77	415	405	70.37
	TOTAL	120	2,310.0	931,368	1,243,094	9,181.84	14,159.14	403	538	76.52
LOUISIANA	Lumber	153	3,784.1	1,431,850	2,873,766	11,087.01	17,309.78	378	759	72.46
	Other Carload Freight	102	2,059.4	1,061,922	1,562,941	9,412.03	16,308.71	516	759	92.27
	TOTAL	255	5,843.5	2,493,772	4,436,707	20,499.04	33,618.49	427	759	80.39
OKLAHOMA	Oil (Group A)	637	17,270.2	8,560,396	5,014,258	75,260.85	53,548.31	496	290	118.15
	(Group B)	3,819	90,096.0	43,131,918	30,837,371	379,578.23	300,710.70	479	342	117.92
	Other Carload Freight	654	12,334.3	5,459,937	4,072,966	51,385.00	94,467.40	443	530	78.87
	TOTAL	4,510	119,700.5	57,152,251	39,924,595	506,224.08	448,726.41	477	534	112.25
NORTH-EAST TEXAS	Lumber	42	1,181.7	309,630	631,925	3,452.56	5,838.86	262	535	73.72
	Oil	477	13,158.6	5,676,288	7,527,361	35,019.99	67,110.86	431	572	69.22
	Live Stock	78	875.3	412,693	451,698	3,597.33	7,616.25	471	516	46.12
	Other Carload Freight	507	7,666.1	3,621,587	4,284,185	38,650.67	96,060.34	472	559	76.23
	TOTAL	1,104	22,881.7	10,020,198	12,895,169	78,721.55	176,626.31	438	554	71.30
REMAINDER OF TEXAS COMMON POINT TERRITORY	Lumber	134	3,643.8	1,592,827	2,894,561	10,659.74	16,695.27	437	794	79.55
	Oil	165	4,302.2	2,086,255	3,243,753	12,096.80	23,747.62	485	754	73.31
	Live Stock	29	326.9	187,815	229,321	1,302.67	3,422.70	483	702	44.92
	Other Carload Freight	469	9,141.9	4,077,159	7,631,079	41,083.44	101,039.87	446	838	87.40
	TOTAL	797	17,414.8	7,914,036	13,998,714	65,142.65	144,905.46	454	804	81.78
TEXAS COMMON POINT TERRITORY	Lumber	176	4,825.5	1,902,457	3,526,486	14,113.30	22,534.13	394	731	80.19
	Oil	642	17,460.8	7,762,523	10,771,114	45,116.79	90,858.48	445	617	70.28
	Live Stock	107	1,202.2	570,508	681,019	4,900.00	11,038.95	475	566	45.79
	Other Carload Freight	976	16,808.0	7,698,746	11,915,264	79,734.11	197,100.21	458	709	81.88
	TOTAL	1,901	40,296.5	17,934,234	26,893,883	143,864.20	321,531.77	445	667	78.88
GRAND TOTAL		7,066	172,450.0	80,119,760	73,255,806	701,161.36	839,391.04	465	425	99.23

WESTERN TRUNK LINES
Exhibit Ex. A-60

RECAPITULATION - VIA KANSAS CITY

Miles South	Revenue North	Revenue South	Average Haul Per Ton North	Average Haul Per Ton South	REVENUE Per Car Dollars and Cents North	Per Car Dollars and Cents South	Per Ton Dollars and Cents North	Per Ton Dollars and Cents South	Per Car Mile Cents North	Per Car Mile Cents South	Per Ton Mile Mills North	Per Ton Mile Mills South
116,091	995.10	1,462.62	299	334	82.93	121.89	2.85	4.20	27.73	36.49	9.56	12.60
641,436	20,397.10	19,892.61	381	162	76.11	74.23	5.16	5.03	19.97	45.81	13.56	31.01
757,527	21,392.20	21,355.23	374	176	76.40	76.27	4.98	4.97	20.43	43.38	13.30	28.19
912,219	4,678.02	6,604.87	397	611	83.54	117.94	3.13	4.42	21.04	19.30	7.90	7.24
330,875	4,503.82	7,554.77	415	405	70.37	118.04	5.51	9.24	16.96	29.15	13.27	22.83
1,243,094	9,181.84	14,159.14	403	538	76.52	118.00	3.97	6.13	18.99	21.93	9.86	11.39
2,873,766	11,087.01	17,309.73	378	759	72.46	113.14	2.92	4.57	19.17	14.90	7.74	6.02
1,562,941	9,412.03	16,308.71	516	759	92.27	159.89	4.57	7.91	17.88	21.06	8.86	10.43
4,436,707	20,499.04	33,618.49	427	759	80.39	131.84	3.51	5.76	18.83	17.37	8.22	7.58
5,014,258	75,260.85	53,548.31	496	290	118.15	84.06	4.35	3.10	23.82	28.98	8.79	10.68
30,837,371	379,578.23	300,710.70	479	342	117.92	93.42	4.21	3.33	24.61	27.31	8.80	9.75
4,072,966	51,385.00	94,467.40	443	330	78.57	144.45	4.16	7.65	17.73	43.77	9.41	23.19
39,924,595	506,224.08	448,726.41	477	334	118.25	99.50	4.23	3.75	23.53	29.79	8.86	11.24
631,925	3,453.56	5,838.86	262	535	73.72	139.02	2.92	4.94	28.14	25.99	11.15	9.24
7,527,361	35,019.99	67,110.86	431	572	69.22	140.69	2.51	5.10	16.06	24.60	5.82	8.92
451,698	3,597.33	7,616.25	471	516	46.12	97.65	4.11	8.70	9.79	18.92	8.72	16.86
4,284,185	38,650.67	96,060.34	472	559	76.25	189.47	5.04	12.53	16.15	33.89	10.37	22.42
12,895,169	78,721.55	176,626.31	458	564	71.30	159.99	3.44	7.72	16.28	28.37	7.85	13.70
2,894,561	10,659.74	16,695.27	437	794	79.55	124.59	2.93	4.58	18.20	15.69	6.69	5.77
3,243,753	12,096.80	25,747.62	485	754	73.51	143.93	2.81	5.52	15.12	19.09	5.80	7.32
229,321	1,302.67	3,422.70	483	702	44.92	118.02	3.98	10.47	9.30	16.81	8.25	14.93
7,631,079	41,083.44	101,039.87	446	855	87.60	215.44	4.49	11.05	19.64	25.80	10.08	13.24
13,998,714	65,142.65	144,905.46	454	804	81.75	181.81	3.74	8.32	18.00	22.61	8.25	10.35
3,526,486	14,113.30	22,534.13	394	731	80.19	128.03	2.93	4.67	20.35	17.52	7.42	6.39
10,771,114	48,116.79	90,858.48	445	617	70.28	141.52	2.58	5.20	15.79	22.94	5.81	8.44
681,019	4,900.00	11,038.95	475	566	45.79	103.17	4.08	9.18	9.64	18.23	8.59	16.21
11,916,264	79,734.11	197,100.21	458	709	81.69	201.95	4.74	11.73	17.84	28.48	10.36	16.54
26,893,883	148,864.20	321,531.77	445	667	75.68	169.14	3.57	7.98	17.01	25.56	8.02	11.96
73,255,606	701,161.36	839,391.04	466	425	99.23	118.79	4.07	4.87	21.34	27.95	8.75	11.45

FORM 2 - 300 - 1-26

RESPONDENT ROADS

A.T.& S.F.Ry. :M-K-T RR of Tex.
Ft.W.& D.C.Ry. :Mo.Pac.R.R.Co.
Gulf Coast Lines:P.& S.F.Ry.
G.C.& S.F. Ry. :St.L.-S.F.Ry.
I.-G.N. R.R. :St.L.-S.F.Ry.of Tex.
K.C.M.& O. Ry. :St.L.-S.W.Ry.
KCM&O Ry.of Tex.:St.L.-S.W.Ry.of Tex.
K.C.S. Ry. :Sou.Pac.Lines (La.)
K.O.& G. Ry. :Sou.Pac.Lines (Tex.)
L.R.& N. Co. :T.& Ft.S. Ry.
M-K-T. R.R. :T.& P. Ry.
V.S.& P.Ry.

WESTERN TRUNK LINES VS. SOUTHWESTERN LINES

SUMMARY of Detail Sheet Nos.1 to 5.....by junctions, also commodities, the latter separated showing tota commodity handled, for month of October, 1924, covering movement of freight traffic in carload originati heading in right hand marginal column of this sheet) in Southwestern Lines' Territory (Texas Differential Texas Common Points) and Western Trunk Line Territory and Territory East thereof when moving through W.T. statistical information described in the various headings.

Junctions with W.T.L.Roads	COMMODITY	No. of Carr	CAR MILES		TONS	TONS ONE MILE		REVENUE IN DOLLARS		Aver (
			W.T.L.	S.W.L.		W.T.L.	S.W.L.	W.T.L.	S.W.L.	W.T.L.
E.St.Louis	Apples	1	291	344	13	3.783	4.472	46	93	291.00
"	Apple Waste	2	562	682	45	12.645	15.451	123	332	281.00
"	Asphalt Liquid	17	4.637	8.976	541	147.566	285.648	1.023	2.386	272.77
"	Canned Goods	1	291	343	18	5.238	6.174	66	112	291.00
"	C.S. Meal	5	1.345	2.045	110	29.969	45.141	236	622	272.45
"	C.S. Oil	33	9.483	13.144	988	283.804	392.969	2.066	5.170	287.25
"	Engine & Separator	1	261	358	16	4.176	5.728	74	182	261.00
"	Excelsior Pads	4	1.140	1.528	60	17.018	22.844	187	244	283.63
"	Fuel Wood	4	1.421	1.748	115	40.648	50.080	154	352	353.46
"	Furniture	8	2.111	4.068	68	17.920	34.749	482	759	263.53
"	Hides	3	912	1.306	68	20.612	29.455	212	356	303.12
"	Hogs	1	174	382	12	2.018	4.431	24	49	168.17
"	Lumber	621	151.833	250.845	16.180	4,008.160	6,513.650	34.616	79.117	247.72
"	Machinery	1	330	382	12	3.960	4.458	54	179	330.00
"	Mineral Water	3	861	1.308	50	14.407	21.887	226	221	288.14
"	Misel.C.L.	15	3.970	5.152	254	66.481	87.573	917	1.623	261.74
"	Oil	430	128.880	219.495	14.900	4,470,233	7,611.192	27.604	61.645	300.02
"	Poultry(live)	1	281	416	10	2.810	4.160	80	106	281.00
"	Rice	23	6.321	8.464	518	142.934	190.560	1.832	3.351	275.93
"	Rice Hulls	17	4.859	6.205	338	96.534	123.370	791	1.480	285.60
"	Rubber(Scrap)	2	572	764	58	16.671	22.232	227	256	287.43
"	Scrapers (Track Road)	1	96	528	12	1.152	6.336	54	212	96.00
"	Shells	1	371	295	31	11.501	9.145	133	71	371.00
"	Sorghum	2	220	1.094	48	5.258	26.147	153	377	109.54
"	Tallow	1	281	382	16	4.440	6.036	37	60	277.50

3rd Sheet

I.C.C. DOCKET 15234

Exhibit No. Ex A-116

Sheet No. 1

This Statement Covers

North Bound Traffic

To W.T.L. Territory

State From Arkansas

State To Illinois

WESTERN TRUNK LINES VS. SOUTHWESTERN LINES

5.....by junctions, also commodities, the latter separated showing total number of cars of each October, 1924, covering movement of freight traffic in carload originating and terminating,(see olumn of this sheet) in Southwestern Lines' Territory (Texas Differential Group separate from Trunk Line Territory and Territory East thereof when moving through W.T.L. Territory, showing, d in the various headings.

TONS ONE MILE		REVENUE IN DOLLARS		Average Haul (Miles)		Average Revenue Per Ton Per Mile (Mills)		Average Revenue Per Car Mile (Cents)	
W.T.L.	S.W.L.	W.T.L.	S.W.L.	W.T.L.	S.W.L.	W.T.L.	S.W.L.	W.T.L.	S.W.L.
3.783	4.472	46	93	291.00	344.00	12.16	20.80	15.81	27.03
12.645	15.451	123	332	281.00	343.35	9.73	21.49	21.89	48.68
147.566	285.648	1.023	2.386	272.77	528.00	6.93	8.35	22.06	26.58
5.238	6.174	66	112	291.00	343.00	12.60	18.14	22.68	32.65
29.969	45.141	236	622	272.45	410.37	7.87	13.78	17.55	30.42
283.804	392.969	2.066	5.170	287.25	397.74	7.28	13.16	21.79	39.33
4.176	5.728	74	182	261.00	358.00	17.72	31.77	28.35	50.84
17.018	22.844	187	244	283.63	380.73	10.99	10.68	16.40	15.97
40.648	50.080	154	352	353.46	435.48	3.79	7.03	10.84	20.14
17.920	34.749	482	759	263.53	511.01	26.90	21.84	22.83	18.66
20.612	29.455	212	356	303.12	433.16	10.28	12.09	23.25	27.26
2.018	4.431	24	49	168.17	369.25	11.89	11.06	13.79	12.83
4,008.160	6,513.650	34.616	79.117	247.72	402.57	8.62	12.15	22.76	31.54
3.960	4.458	54	179	330.00	371.50	13.64	40.15	16.36	46.83
14.407	21.887	226	221	288.14	437.74	15.69	10.10	26.25	16.90
66.481	87.573	917	1.623	261.74	344.78	13.79	18.53	23.10	31.50
4,470.233	7,611.192	27.604	61.645	300.02	510.82	6.18	8.10	21.42	28.08
2.810	4.160	80	106	281.00	416.00	28.47	25.48	28.47	25.48
142.934	190.560	1.832	3.351	275.93	367.88	12.82	17.59	28.98	39.59
96.534	123.370	791	1.480	285.60	365.00	8.19	12.00	16.28	23.85
16.671	22.232	227	256	287.43	383.31	13.62	11.51	39.69	33.51
1.152	6.336	54	212	96.00	528.00	46.87	33.46	56.25	40.15
11.501	9.145	133	71	371.00	296.00	11.56	7.76	35.85	24.07
5.258	26.147	153	377	109.54	544.73	29.10	14.42	69.54	34.46
4.440	6.036	37	60	277.50	377.25	7.20	9.94	11.39	15.71

"	Asphalt Liquid	17	4.637	8.976	541	147.566	285.648	1.023	2.386	272.77	
"	Canned Goods	1	291	343	18	5.238	6.174	66	112	291.00	
"	C.S. Meal	5	1.345	2.045	110	29.969	45.141	236	622	272.45	
"	C.S. Oil	33	9.483	13.144	988	283.804	392.969	2.066	5.170	287.25	
"	Engine & Separator	1	261	358	16	4.176	5.728	74	182	261.00	
"	Excelsior Pads	4	1.140	1.528	60	17.018	22.844	187	244	283.63	
"	Fuel Wood	4	1.421	1.748	115	40.648	50.080	154	352	353.46	
"	Furniture	8	2.111	4.068	68	17.920	34.749	482	759	263.53	
"	Hides	3	912	1.306	68	20.612	29.455	212	356	303.12	
"	Hogs	1	174	382	12	2.018	4.431	24	49	168.17	
"	Lumber	621	151.833	250.845	16.180	4,008.160	6,513.650	34.616	79.117	247.72	
"	Machinery	1	330	382	12	3.960	4.458	54	179	330.00	
"	Mineral Water	3	861	1.308	50	14.407	21.887	226	221	288.14	
"	Miscl.C.L.	15	3.970	5.152	254	66.481	87.573	917	1.623	261.74	
"	Oil	430	128.880	219.495	14.900	4,470.233	7,611.192	27.604	61.645	300.02	
"	Poultry(live)	1	281	416	10	2.810	4.160	80	106	281.00	
"	Rice	23	6.321	8.464	518	142.934	190.560	1.832	3.351	275.93	
"	Rice Hulls	17	4.859	6.205	338	96.534	123.370	791	1.480	285.60	
"	Rubber(Scrap)	2	572	764	58	16.671	22.232	227	256	287.43	
"	Scrapers (Track Road)	1	96	528	12	1.152	6.336	54	212	96.00	
"	Shells	1	371	295	31	11.501	9.145	133	71	371.00	
"	Sorghum	2	220	1.094	48	5.258	26.147	153	377	109.54	
"	Tallow	1	281	382	16	4.440	6.036	37	60	277.50	
Total via E.St.Louis		1.198	321.503	530.254	34.481	9,429.938	15,523.888	71.417	159.355	273.48	
Cairo	Lumber	3	376	768	102	13.260	26.528	222	307	130.00	
"	Miscl.C.L.	1	391	280	5	1.838	1.316	57	115	367.60	
Total via Cairo		4	767	1.048	107	15.098	27.844	279	422	141.10	

3.783	4.472	46	93	291.00	344.00	12.16	20.80	15.81	27.03	
12.645	15.451	123	332	281.00	343.35	9.73	21.49	21.89	48.68	
147.566	285.648	1.023	2.386	272.77	528.00	6.93	8.35	22.06	26.58	
5.238	6.174	66	[illegible]	291.00	343.00	12.60	18.14	22.68	32.65	
29.969	45.141	236	[illegible]22	272.45	410.37	7.87	13.78	17.55	30.42	
283.804	392.969	2.066	5.170	287.25	397.74	7.28	13.16	21.79	39.33	
4.176	5.728	74	182	261.00	358.00	17.72	31.77	28.35	50.84	
17.018	22.844	18[illegible]	244	283.63	380.73	10.99	10.68	16.40	15.97	
40.648	50.080	154	352	353.46	435.48	3.79	7.03	10.84	20.14	
17.920	34.749	482	759	263.53	511.01	26.90	21.84	22.83	18.66	
20.612	29.455	212	356	303.12	433.16	10.28	12.09	23.25	27.26	
2.018	4.431	24	49	168.17	369.25	11.89	11.06	13.79	12.83	
4,008.160	6,513.650	34.616	79.117	247.72	402.57	8.62	12.15	22.76	31.54	
3.960	4.458	54	179	330.00	371.50	13.64	40.15	16.36	46.83	
14.407	21.887	226	221	288.14	437.74	15.69	10.10	26.25	16.90	
66.481	87.573	917	1.623	261.74	344.78	13.79	18.53	23.10	31.50	
4,470.233	7,611.192	27.604	61.645	300.02	510.82	6.18	8.10	21.42	28.08	
2.810	4.160	80	106	281.00	416.00	28.47	25.48	28.47	25.48	
142.934	190.560	1.832	3.351	275.93	367.88	12.82	17.59	28.98	39.59	
96.534	123.370	791	1.480	285.60	365.00	8.19	12.00	16.28	23.85	
16.671	22.232	227	256	287.43	383.31	13.62	11.51	39.69	33.51	
1.152	6.336	54	212	96.00	528.00	46.87	33.46	56.25	40.15	
11.501	9.145	133	71	371.00	295.00	11.56	7.76	35.85	24.07	
5.258	26.147	153	377	109.54	544.73	29.10	14.42	69.54	34.46	
4.440	6.036	37	60	277.50	377.25	7.20	9.94	11.39	15.71	
9.429.938	15.523.888	71.417	159.355	273.48	450.22	7.57	10.27	22.21	30.05	
13.260	26.528	222	307	130.00	260.08	16.74	11.57	59.04	39.97	
1.838	1.316	57	115	367.60	263.20	31.01	87.39	14.88	41.07	
15.098	27.844	279	422	141.10	260.22	18.48	15.16	36.38	40.27	

Form 1 600 1-26

RESPONDENT ROADS

A.T.& S.F.Ry.	: M-K-T RR of Tex.
Ft.W.& D.C.Ry.	: Mo.Pac.R.R.Co.
Gulf Coast Lines	: P.& S.F.Ry.
G.C.& S.F.Ry	: St.L.-S.F.Ry.
I.-G.N. R.R.	: St.L.-S.F.Ry.of Tex.
K.C.M.& O.Ry.	: St.L.S.W.Ry.
KCM&O Ry.of Texas	: St.L.S.W.Ry.of Tex.
K.C.S.Ry.	: Sou.Pac.Lines (La.)
K.O.& G.Ry.	: Sou.Pac.Lines (Tex)
L.R.& N. Co.	: T.& Ft.S.Ry.
M-K-T R.R.	: T.& P. Ry.
V.S.& P. Ry.	

WESTERN TRUNK LINES VS. SOUTHWESTERN LINES.

RECAPITULATION covering movement of freight traffic in carload originating and terminating in Southwestern Li (Texas Differential Group separate from Texas Common Point) to and from stations on lines in Western Trunk Li from stations East of Western Trunk Line Territory moving through Western Trunk Line Territory, covering divi information described in the various headings separated according to origin and destination states in W.T.L.- junctions shown, for freight traffic settled in accounts during the month of October, 1924.

DIVISION BASIS Divisions Shown are for W.T.L.	Authority for Divisions (See Note)	JUNCTIONS WITH W. T. L. ROADS	Commodity	No. of Cars	CAR MILES		TONS	TONS ONE MILE		REVENUE IN DOLLARS	
					W.T.L.	S.W.L.		W. T. L.	S. W. L.	W. T. L.	S. W.
18.2¢ cwt.	StLSF.D.B.1658	E.St.Louis	Apples	1	291	344	13	3.783	4.472	46	93
13.8¢ cwt.	D.D.	"	Apple Wastes	2	562	682	45	12.645	15.451	123	332
30%	M.P.P.S. 819	"	Asphalt Liquid	17	4.637	8.976	541	147.566	285.648	1.023	2.386
18¢ cwt.	D.D.	"	Canned Goods	1	291	343	18	5.238	6.174	66	112
10.4¢ cwt.	S.W.L.#44	"	C.S.Meal	3	934	1.189	70	21.708	27.935	146	381
11¢ cwt.	D.D.	"	"	1	238	428	20	4.784	8.603	44	123
25% of L.R. rate 39¢	M.P.D.B.4368A	"	"	1	173	428	20	3.477	8.603	46	118
			Total	5	1.345	2.045	110	29.969	45.141	236	622
10.4¢ cwt.	S.W.L.#44	"	C.S. Oil	33	9.483	13.144	988	283.804	392.969	2.066	5.170
22.5¢ cwt.	I.F.A.# 5	"	Engine & Separator	1	261	358	16	4.176	5.728	74	182
15.6¢ cwt.	M.P.D.B.4368A	"	Excelsior Pads	4	1.140	1.528	60	17.018	22.844	187	244
6.7¢ cwt.	M.P.D.B.4368A	"	Fuel Wood	4	1.421	1.748	115	40.648	50.080	154	352
20.5¢ cwt.	I.F.A. # 5	"	Furniture	2	562	832	16	4.496	6.656	64	215
40¢ cwt.	"	"	"	6	1.549	3.236	52	13.424	28.093	418	544
			Total	8	2.111	4.068	68	17.920	34.749	482	759
20¢	S.W.L.# 10	"	Hides	2							

I.C.C. DOCKET 15234
Exhibit No. EX A-116
Sheet No. 1

This Statement Covers
NORTH Bound Traffic
TO W. T. L. Territory
State From ARKANSAS
State TO ILLINOIS

WESTERN TRUNK LINES VS. SOUTHWESTERN LINES.

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ight traffic in carload originating and terminating in Southwestern Lines' Territory
Texas Common Point) to and from stations on lines in Western Trunk Line Territory, and to and
e Territory moving through Western Trunk Line Territory, covering divisional and statistical
adings separated according to origin and destination states in W.T.L.-S.W.L.Territory, via
ttled in accounts during the month of October, 1924.

TONS	TONS ONE MILE		REVENUE IN DOLLARS		Average Haul (Miles)		Average Revenue Per Ton Per Mile (Mills)		Average Revenue Per Car Mile (Cents)	
	W. T. L.	S. W. L.	W. T. L.	S. W. L.	W. T. L.	S. W. L.	W. T. L.	S. W. L.	W. T. L.	S. W. L.
13	3.783	4.472	46	93	291.00	344.00	12.16	20.80	15.81	27.03
45	12.645	15.451	123	332	281.00	343.35	9.73	21.49	21.89	48.68
541	147.566	285.648	1.023	2.386	272.77	528.00	6.93	8.35	22.06	26.58
18	5.238	6.174	66	112	291.00	343.00	12.60	18.14	22.68	32.65
70	21.708	27.935	146	381	310.11	399.07	6.73	13.64	15.63	32.04
20	4.784	8.603	44	123	239.20	430.15	9.20	14.30	18.49	28.74
20	3.477	8.603	46	118	173.85	430.15	13.23	13.72	26.59	27.57
110	29.969	45.141	236	622	272.45	410.37	7.87	13.78	17.55	30.42
988	283.804	392.969	2.066	5.170	287.25	397.74	7.28	13.16	21.79	39.33
16	4.176	5.728	74	182	261.00	358.00	17.72	31.77	28.35	50.84
60	17.018	22.844	187	244	283.63	380.73	10.99	10.68	16.40	15.97
115	40.648	50.080	154	352	353.46	435.48	3.79	7.03	10.84	20.14
16	4.496	6.656	64	215	281.00	416.00	14.23	32.30	11.39	25.84
52	13.424	28.093	418	544	258.15	540.25	31.14	19.36	26.99	16.81
68	17.920	34.749	482	759	263.53	511.01	26.90	21.84	22.83	18.66

[illegible] cwt.	D.D.		Waste	2	562	582	45	12.645	15.451	123	338
30%	M.P.P.S. 819	"	Asphalt Liquid	17	4.637	8.976	541	147.566	285.648	1.023	2.386
18¢ cwt.	D.D.	"	Canned Goods	1	291	343	18	5.238	6.174	66	112
10.4¢ cwt.	S.W.L.#44	"	C.S.Meal	3	934	1.189	70	21.708	27.935	146	381
11¢ cwt.	D.D.	"	"	1	238	428	20	4.784	8.603	44	123
29% of L.R. rate 39¢	M.P.D.B.4368A	"	"	1	173	428	20	3.477	8.603	46	118
			Total	5	1.345	2.045	110	29.969	45.141	236	622
10.4¢ cwt.	S.W.L.#44	"	C.S. Oil	33	9.483	13.144	988	283.804	392.969	2.066	5.170
22.5¢ cwt.	I.F.A.# 5	"	Engine & Separator	1	261	358	16	4.176	5.728	74	182
15.6¢ cwt.	M.P.D.B.4368A	"	Excelsior Pads	4	1.140	1.528	60	17.018	22.844	187	244
6.7¢ cwt.	M.P.D.B.4368A	"	Fuel Wood	4	1.421	1.748	115	40.648	50.080	154	352
20.5¢ cwt.	I.F.A. # 5	"	Furniture	2	562	832	16	4.496	6.656	64	215
40¢ cwt.	"	"	"	6	1.549	3.236	52	13.424	28.093	418	544
			Total	8	2.111	4.068	68	17.920	34.749	482	759
20%	S.W.L.# 19	"	Hides, Green	1	340	526	22	7.344	11.362	42	168
16¢ cwt.	I.F.A.# 5	"	"	1	281	382	23	6.575	8.939	75	105
20.5¢ cwt.	"	"	"	1	291	398	23	6.693	9.154	95	83
			Total	3	912	1.306	68	20.612	29.455	212	356
33.4%	D.D.	"	Hogs	1	174	382	12	2.018	4.431	24	49

NOTE: The letters "DD" indicate divisions in dispute.
The letters "ND" indicate no divisions published.

2	682	45	12.645	15.451	123	332	281.00	343.25	9.73	21.49	21.89	48.68
7	8.976	541	147.566	285.648	1.023	2.386	272.77	528.00	6.93	8.35	22.06	26.58
1	343	18	5.238	6.174	66	112	291.00	343.00	12.60	18.14	22.68	32.65
4	1.189	70	21.708	27.935	146	381	310.11	399.07	6.73	13.64	15.63	32.04
8	428	20	4.784	8.603	44	123	239.20	430.15	9.20	14.30	18.49	28.74
8	428	20	3.477	8.603	46	118	173.85	430.15	13.23	13.72	26.59	27.57
5	2.045	110	29.969	45.141	236	622	272.45	410.37	7.87	13.78	17.55	30.42
3	13.144	988	283.804	392.969	2.066	5.170	287.25	397.74	7.28	13.16	21.79	39.33
1	358	16	4.176	5.728	74	182	261.00	358.00	17.72	31.77	28.35	50.84
9	1.528	60	17.018	22.844	187	244	283.63	380.73	10.99	10.68	16.40	15.97
2	1.748	115	40.648	50.080	154	352	353.46	435.48	3.79	7.03	10.84	20.14
2	832	16	4.496	6.656	64	215	281.00	416.00	14.23	32.30	11.39	25.84
9	3.236	52	13.424	28.093	418	544	258.15	540.25	31.14	19.36	26.99	16.81
	4.068	68	17.920	34.749	482	759	263.53	511.01	26.90	21.84	22.83	18.66
	526	22	7.344	11.362	42	168	333.82	516.45	5.72	14.79	12.35	31.94
	382	23	6.575	8.939	75	105	285.87	388.65	11.41	11.75	25.69	27.49
	398	23	6.693	9.154	95	83	291.00	398.00	14.19	9.07	32.65	20.85
	1.306	68	20.612	29.455	212	356	303.12	433.16	10.28	12.09	23.25	27.26
	382	12	2.018	4.431	24	49	168.17	369.25	11.89	11.06	13.79	12.83

FORM 6 - - 1-26

RESPONDENT ROADS

A.T.& S.F.Ry. :M-K-T RR of Tex.
FtlW.& D.C.Ry. :Mo.Pac. R.R. Co.
Gulf Coast Lines:P.& S.F.Ry.
G.C.& S.F.Ry. :St.L.-S.F.Ry.
I.-G.N.R.R. :St.L.-S.F.Ry.of Tex.
K.C.M.& O. Ry. :St.L.S.W.Ry.
KCM&O Ry.of Tex.:St.L.S.W.Ry.of Tex.
K.C.S.Ry. :Sou.Pac.Lines (La.)
K.O.& G.Ry. :Sou.Pac.Lines (Tex).
L.R.& N.Co. :T.& Pt.S.Ry.
M-K-T. R.R. :T.& P. Ry.
V.S.& P. Ry.

WESTERN TRUNK LINES VS. SOUTHWESTERN LINES

SUMMARY showing Grand Total of freight traffic handled by all states in Southwestern Lines' Territory to, from and th Western Trunk Line Territory, covering statistical information described in the various headings for freight traffic in accounts during the month of October, 1924.

STATES FROM	STATES TO	TRAFFIC	No. of Cars	CAR MILES W.T.L.	CAR MILES S.W.L.	TONS	TONS ONE MILE W.T.L.	TONS ONE MILE S.W.L.	REVENUE IN DOLLARS W.T.L.	REVENUE IN DOLLARS S.W.L.	S.W.L. S.L.Conn.
Arkansas	Various	North Bound	2.213	693.554	934.640	65.217	20.786.053	28.207.164	155.142	269.368	
Various	Arkansas	South Bound	759	260.187	249.007	15.855	4.375.443	4.572.044	53.773	97.833	
	Total		2.972	953.741	1.183.647	81.072	25.161.496	32.779.208	208.915	367.201	
Louisiana	Various	North Bound	1.243	432.242	852.760	32.694	11.401.568	22.456.333	79.892	161.565	
Various	Louisiana	South Bound	284	119.550	178.205	5.392	2.155.965	3.318.491	24.815	48.488	
	Total		1.527	551.792	1.030.965	38.086	13.557.533	25.774.824	104.707	210.053	
Missouri	Various	North Bound	1.407	327.554	191.310	40.388	8.275.349	4.943.269	82.491	79.962	
Various	Missouri	South Bound	1.306	236.379	170.905	46.422	6.173.298	5.484.435	58.861	94.071	
	Total		2.713	563.933	362.215	86.810	14.448.647	10.427.704	141.352	174.033	
Oklahoma	Various	North Bound	4.588	1.884.228	1.584.062	124.283	51.384.814	43.022.339	444.820	459.226	
Various	Oklahoma	South Bound	654	288.660	241.998	12.017	5.234.774	4.465.585	57.380	122.526	
	Total		5.242	2.172.888	1.826.060	136.300	56.619.588	47.487.924	502.200	581.752	
Texas (C.P.)	Various	North Bound	4.329	1.809.247	2.922.021	108.989	45.919.646	75.207.211	297.693	620.249	
Various	Texas (C.P.)	South Bound	2.919	1.221.474	2.192.765	46.875	19.367.479	35.407.103	256.709	680.570	
	Total		7.248	3.030.721	5.114.786	155.864	65.287.125	110.614.314	554.402	1.300.819	
Texas Diffnl.	Various	North Bound	671	150.418	481.229	8.225	1.929.327	5.785.892	18.061	76.651	
Various	Texas,Diffnl.	South Bound	412	172.241	321.688	4.853	1.999.507	3.904.211	34.086	102.702	
	Total		1.083	322.659	802.917	13.078	3.928.834	9.690.103	52.147	179.353	
Total	North Bound		14.451	5.297.243	6.966.022	379.796	139.696.757	179.622.208	1.078.099	1.667.021	
"	South Bound		6.334	2.298.491	3.354.568	131.414	39.306.466	57.151.869	485.624	1.146.190	
Total North and	South Bound		20.785	7.595.734	10.320.590	511.210	179.003.223	236.774.077	1.563.723	2.813.211	
Arkansas	Various	Lumber	411	107.779	171.546	10.874	2.849.065	4.530.210	25.569	37.128	14.119

I.C.C. DOCKET 15234

Exhibit No. A-123

This statement Covers

Summary of Exhibits

From A-116 to A-122, incl.

WESTERN TRUNK LINES VS. SOUTHWESTERN LINES

tal of freight traffic handled by all states in Southwestern Lines' Territory to, from and through tory,- covering statistical information described in the various headings for freight traffic settled in accounts during the month of October, 1924.

R MILES		TONS	TONS ONE MILE		REVENUE IN DOLLARS			Average Haul (Miles)		Average Revenue Per Ton Per Mile (Mills)		Average Revenue Per Car Mile (Cents)	
	S.W.L.		W.T.L.	S.W.L.	W.T.L.	S.W.L.	S.W.L. S.L.Conn.	W.T.L.	S.W.L.	W.T.L.	S.W.L.	W.T.L.	S.W.L.
54	934.640	65.217	20.786.053	28.207.164	155.142	269.368		318.72	432.51	7.46	9.55	22.37	28.82
87	249.007	15.855	4.375.443	4.572.044	53.773	97.833		275.97	288.37	12.29	21.40	20.67	39.29
41	1.183.647	81.072	25.161.496	32.779.208	208.915	367.201		310.35	404.32	8.30	11.20	21.91	31.02
32	852.760	32.694	11.401.568	22.456.333	79.892	161.565		348.74	686.86	7.01	7.19	18.48	18.35
60	178.205	5.392	2.155.965	3.318.491	24.815	48.488		399.85	615.44	11.51	14.61	20.76	27.21
92	1.030.965	38.086	13.557.533	25.774.824	104.707	210.053		355.97	676.75	7.72	8.15	18.98	20.37
54	191.310	40.388	8.275.349	4.943.269	82.491	79.962		204.90	122.39	9.97	16.18	25.18	41.80
79	170.905	46.422	6.173.298	5.484.435	58.861	94.071		132.98	118.14	9.53	17.15	24.90	55.04
23	362.215	86.810	14.448.647	10.427.704	141.352	174.033		166.44	120.12	9.78	16.69	25.07	48.05
28	1.584.062	124.283	51.384.814	43.022.339	444.820	459.226		413.45	346.16	8.66	10.67	23.61	28.99
40	241.998	12.017	5.234.774	4.465.585	57.380	122.526		435.61	371.61	10.96	27.44	19.88	50.63
88	1.826.060	136.300	56.619.588	47.487.924	502.200	581.752		415.40	348.41	8.87	12.25	23.11	31.86
97	2.922.021	108.989	45.919.646	75.207.211	297.693	620.249		421.32	690.04	6.48	8.25	16.45	21.23
74	2.192.765	46.875	19.361.479	35.407.103	256.709	680.570		413.17	755.35	13.25	19.22	21.01	31.04
21	5.114.786	155.864	65.287.125	110.614.314	554.402	1.300.819		418.87	709.68	8.49	11.76	18.29	25.43
18	481.229	8.225	1.929.327	5.785.892	18.061	76.651		234.57	703.45	9.36	13.25	12.01	15.92
51	321.688	4.863	1.999.507	3.904.211	34.086	102.702		412.01	804.49	17.05	26.31	19.78	31.91
99	802.917	13.078	3.928.834	9.690.103	52.147	179.353		300.41	740.95	13.27	18.51	16.16	22.33
13	6.966.022	379.796	139.696.757	179.622.208	1.078.099	1.667.021		367.82	472.94	7.72	9.28	20.35	23.93
71	3.354.568	131.414	39.306.466	57.151.869	485.624	1.146.190		299.10	434.90	12.35	20.06	21.13	34.17
64	10.320.590	511.210	179.003.223	236.774.077	1.563.723	2.813.211		350.16	463.16	8.74	11.88	20.59	27.26
19	171.546	10.874	2.849.065	4.530.210	25.569	37.128	14.119	262.01	416.61	8.97	8.20	23.72	21.64
62	212.188	9.084	2.835.315	5.534.038	20.499	33.704	12.802	312.12	609.21	7.23	6.09	19.40	15.88
12	17.912	2.466	845.276	494.101	7.116	5.874	2.473	342.77	200.37	8.42	11.89	23.84	32.79

L.R.& F.Co. :T.& Pt.C.Ry.
M-K-T. R.R. :T.& P. Ry.
V.S.& P. Ry.

STATES		TRAFFIC	No. of Cars	CAR MILES		TONS	TONS ONE MILE		REVENUE IN DOLLARS		
FROM	TO			W.T.L.	S.W.L.		W.T.L.	S.W.L.	W.T.L.	S.W.L.	S.W.L. S.L.Cor
Arkansas	Various	North Bound	2.213	693.554	934.640	65.217	20.786.053	28.207.164	155.142	269.368	
Various	Arkansas	South Bound	759	260.187	249.007	15.855	4.378.443	4.572.044	53.773	97.833	
	Total		2.972	953.741	1.183.647	81.072	25.161.496	32.779.208	208.915	367.201	
Louisiana	Various	North Bound	1.243	432.242	852.760	32.694	11.401.568	22.456.333	79.892	161.565	
Various	Louisiana	South Bound	284	119.550	178.205	5.392	2.155.965	3.328.491	24.815	48.488	
	Total		1.527	551.792	1.030.965	38.086	13.557.533	25.774.824	104.707	210.053	
Missouri	Various	North Bound	1.407	327.554	191.310	40.388	8.275.349	4.943.269	82.491	79.962	
Various	Missouri	South Bound	1.306	236.379	170.905	46.422	6.173.298	5.484.435	58.861	94.071	
	Total		2.713	563.933	362.215	86.810	14.448.647	10.427.704	141.352	174.033	
Oklahoma	Various	North Bound	4.588	1.884.228	1.584.062	124.283	51.384.814	43.022.339	444.820	459.226	
Various	Oklahoma	South Bound	654	288.660	241.998	12.017	5.234.774	4.465.585	57.380	122.526	
	Total		5.242	2.172.888	1.826.060	136.300	56.619.588	47.487.924	502.200	581.752	
Texas (C.P.)	Various	North Bound	4.329	1.809.247	2.922.021	108.989	45.919.646	75.207.211	297.693	620.249	
Various	Texas (C.P.)	South Bound	2.919	1.221.474	2.192.765	46.875	19.367.479	35.407.103	256.709	680.570	
	Total		7.248	3.030.721	5.114.786	155.864	65.287.125	110.614.314	554.402	1.300.819	
Texas Diffnl.	Various	North Bound	671	150.418	481.229	8.225	1.929.327	5.785.892	18.061	76.651	
Various	Texas,Diffnl.	South Bound	412	172.241	321.688	4.853	1.999.507	3.904.211	34.086	102.702	
	Total		1.083	322.659	802.917	13.078	3.928.834	9.690.103	52.147	179.353	
Total	North Bound		14.451	5.297.243	6.966.022	379.796	139.696.757	179.622.208	1.078.099	1.667.021	
"	South Bound		6.334	2.298.491	3.354.568	131.414	39.306.466	57.151.869	485.624	1.146.190	
Total North and	South Bound		20.785	7.595.734	10.320.590	511.210	179.003.223	236.774.077	1.563.723	2.813.211	
Arkansas	Various	Lumber From Short Line Connections.	411	107.779	171.546	10.874	2.849.065	4.530.210	25.569	37.128	14.119
Louisiana	"		350	105.692	212.188	9.084	2.835.315	5.834.038	20.499	33.704	12.802
Missouri	"		90	29.852	17.912	2.466	845.276	494.101	7.116	5.874	2.473
Oklahoma	"		144	57.788	66.075	3.834	1.529.354	1.752.186	9.390	12.079	4.044
Texas	"		184	56.336	142.742	4.729	1.543.298	3.824.105	11.009	19.966	3.443
	Total		1.179	357.447	610.463	30.987	9.602.308	16.134.640	73.583	108.751	36.901
	Grand Total		21.964	7.953.181	10.931.053	542.197	188.605.531	252.908.717	1.637.306	2.921.962	36.901

From A-110 To A-122, 1901

CAR MILES		TONS	TONS ONE MILE		REVENUE IN DOLLARS			Average Haul (Miles)		Average Revenue Per Ton Per Mile (Mills)		Average Revenue Per Car Mile (Cents)	
W.T.L.	S.W.L.		W.T.L.	S.W.L.	W.T.L.	S.W.L.	S.W.L. S.L.Conn.	W.T.L.	S.W.L.	W.T.L.	S.W.L.	W.T.L.	S.W.L.
693.554	934.640	65.217	20.786.053	28.207.164	155.142	269.368		318.72	432.51	7.46	9.55	22.37	28.82
260.187	249.007	15.855	4.375.443	4.572.044	53.773	97.833		275.97	288.37	12.29	21.40	20.67	39.29
953.741	1.183.647	81.072	25.161.496	32.779.208	208.915	367.201		310.35	404.32	8.30	11.20	21.91	31.02
432.242	852.760	32.694	11.401.568	22.456.333	79.892	161.565		348.74	686.86	7.01	7.19	18.48	18.95
119.550	178.205	5.392	2.155.965	3.318.491	24.815	48.488		399.85	615.44	11.51	14.61	20.76	27.21
551.792	1.030.965	38.086	13.557.533	25.774.824	104.707	210.053		355.97	676.75	7.72	8.15	18.98	20.37
327.554	191.310	40.388	8.275.349	4.943.269	82.491	79.962		204.90	122.39	9.97	16.18	25.18	41.80
236.379	170.905	46.422	6.173.298	5.484.435	58.861	94.071		132.98	118.14	9.53	17.15	24.90	55.04
563.933	362.215	86.810	14.448.647	10.427.704	141.352	174.033		166.44	120.12	9.78	16.69	25.07	48.05
1.884.228	1.584.062	124.283	51.384.814	43.022.339	444.820	459.226		413.45	346.16	8.66	10.67	23.61	28.99
288.660	241.998	12.017	5.234.774	4.465.585	57.380	122.526		435.61	371.61	10.96	27.44	19.88	50.63
2.172.888	1.826.060	136.300	56.619.588	47.487.924	502.200	581.752		415.40	348.41	8.87	12.25	23.11	31.86
1.809.247	2.922.021	108.989	45.919.646	75.207.211	297.693	620.249		421.32	690.04	6.48	8.25	16.45	21.23
1.221.474	2.192.765	46.875	19.361.479	35.407.103	256.709	680.570		413.17	755.35	13.25	19.22	21.01	31.04
3.030.721	5.114.786	155.864	65.287.125	110.614.314	554.402	1.300.819		418.87	709.68	8.49	11.76	18.29	25.43
150.418	481.229	8.225	1.929.327	5.785.892	18.061	76.651		234.57	703.45	9.36	13.25	12.01	15.92
172.241	321.688	4.853	1.999.507	3.904.211	34.086	102.702		412.01	804.49	17.05	26.31	19.78	31.91
322.659	802.917	13.078	3.928.834	9.690.103	52.147	179.353		300.41	740.95	13.27	18.51	16.16	22.33
5.297.243	6.966.022	379.796	139.696.757	179.622.208	1.078.099	1.667.021		367.82	472.94	7.72	9.28	20.35	23.93
2.298.491	3.354.568	131.414	39.306.466	57.151.869	485.624	1.146.190		299.10	434.90	12.35	20.06	21.13	34.17
7.596.734	10.320.590	511.210	179.003.223	236.774.077	1.563.723	2.813.211		350.16	463.16	8.74	11.88	20.59	27.26
107.779	171.546	10.874	2.849.065	4.530.210	25.569	37.128	14.119	262.01	416.61	8.97	8.20	23.72	21.64
105.692	212.188	9.084	2.835.315	5.534.038	20.499	33.704	12.802	312.12	609.21	7.23	6.09	19.40	15.88
29.852	17.912	2.466	845.276	494.101	7.116	5.874	2.473	342.77	200.37	8.42	11.89	23.84	32.79
67.788	66.075	3.834	1.529.354	1.752.186	9.390	12.079	4.044	398.89	457.01	6.14	6.89	16.25	18.28
56.336	142.742	4.729	1.543.298	3.824.105	11.009	19.966	3.463	326.35	808.65	7.13	5.22	19.54	13.99
357.447	610.463	30.987	9.602.308	16.134.640	73.583	108.751	36.901	309.88	520.69	7.66	6.74	20.59	17.81
7.953.181	10.931.053	542.197	188.605.831	252.908.717	1.637.306	2.921.962	36.901	347.85	466.45	8.68	11.55	20.59	26.73

SUPREME COURT OF THE UNITED STATES.

Nos. 44, 45.—October Term, 1930.

The Beaumont, Sour Lake & Western Railway Company, The Fort Worth and Denver City Railway Company, et al., Appellants, 44 *vs.* The United States of America, The Interstate Commerce Commission, et al.	Appeals from the District Court of the United States for the Western District of Missouri.
The United States of America and The Interstate Commerce Commission, Appellants, 45 *vs.* The Beaumont, Sour Lake & Western Railway Company, The Fort Worth and Denver City Railway Company, et al.	

[November 24, 1930.]

Mr. Justice Butler delivered the opinion of the Court.

This is a suit brought in the District Court for the Western District of Missouri by appellants, carriers in southwestern territory, against the United States to annul and set aside an order of the Interstate Commerce Commission prescribing divisions of joint rates applicable to certain freight traffic between points in that territory and points in western trunk line territory or via western lines to and from points in eastern territory. The Commission and certain western trunk line carriers intervened. The case was tried before a court of three judges. 28 U. S. C., § 47. It sustained the order and dismissed the petition. 36 F. (2d) 789. The southwestern lines appealed. 28 U. S. C., § 345 (4). The court stayed

the enforcement of the prescribed divisions until determination here. The United States and Interstate Commerce Commission appealed from that order.

The Commission's order complained of was made in proceedings, instituted October 8, 1923, by the Commission on its own motion. Its report defines western trunk line territory to include Iowa, Minnesota, Wisconsin, the Upper Peninsula of Michigan, Illinois, North Dakota, South Dakota, and that part of Missouri on and north of the main line of the Missouri Pacific between Kansas City and St. Louis; it defines the southwestern territory to include Texas, Arkansas, Oklahoma, that part of Louisiana west of the Mississippi river, and so much of Missouri as is south of the above mentioned line of the Missouri Pacific.

Twelve western trunk lines and thirty-two southwestern lines were parties to this investigation. The former, carriers in that territory having little or no mileage in the southwest, demanded increases and were by the Commission called complainants; the latter, carriers in the southwest having little or no mileage in the other territory, merely sought to retain the existing divisions and were called defendants. The Santa Fe and Rock Island, named as defendants, have important lines in both territories. The former regarded itself as a southwestern carrier; the latter remained neutral. The investigation was as to the reasonableness of divisions of joint rates on freight traffic between points on lines of respondents in southwestern territory and points on lines of respondents in western trunk line territory moving through Kansas City or St. Louis in Missouri, East St. Louis, Cairo, Gale or Thebes in Illinois, and of divisions of the joint rates accruing to respondents on traffic moving through such gateways between such points in southwestern territory and points in eastern territory that lie east of the Illinois-Indiana state line.

The Commission made a report (148 I. C. C. 457) in which among other things it found (p. 477):

Existing divisions were established for the most part about 35 years ago and conform to no logical or consistent basis. They are considerably more favorable to the western trunk lines in case of oil and lumber than in case of other traffic. Transportation conditions have changed materially since most of the divisions were

established and the changes have benefited the southwestern lines more than they have those in the other group. And the trend is distinctly in favor of the former. In respect of density of traffic, transportation conditions are more favorable in western trunk line territory, but conditions vary in different parts of that territory and are considerably more favorable in Illinois than in the other States included in that region and are progressively less favorable from east to west. The difference in transportation conditions is reflected in the level of rates in the two territories. It is not possible from the record to determine just what the average difference is but it appears to be greater than the difference in average transportation conditions. This is particularly true of the class rates which are constructed upon somewhat different theories in the two territories and are in process of revision in the western trunk line territory. The cost of operation per ton mile including all expenses, charges and a fair return on investment probably does not average as much as 20 per cent higher in the southwestern territory than in the other group. On the whole the financial condition of the western trunk lines is not as good as that of the southwestern lines.

The report continues (p. 478):

> "The divisions here in issue are dealt with of record on a group basis. They are, in other words, the divisions 'in the aggregate' north and south of the gateways named, and no question is raised with respect to the divisions of individual carriers. In our opinion the divisions in issue are not just, reasonable, and equitable. Many of them are unjust to complainants, and some of them are unjust to defendants. To cure their defects, they must be readjusted upon a consistent basis which will as nearly as practicable reflect, in the light of all the facts of record, the differing conditions in the two territories."

The Commission found that divisions for the future should be made as follows: The joint rates applicable to traffic moving to or from points in Illinois and Wisconsin should be divided in the proportions that the first-class rate on the southwestern scale for the length of haul south of the gateway and 80 per cent. of such rate for the length of haul north of the gateway, respectively, bear to the total of such assumed rates. Similarly, the joint rates on traffic to or from other points in western trunk line territory should be divided by taking for the northern haul 87 (instead of 80) per cent.

of such assumed rate. The western trunk lines' share of joint rates applicable on the traffic to or from points in the territory east of the Illinois-Indiana line should be determined in like manner on the basis of 80 per cent. of the assumed rate for the northern haul and by deducting 10 cents from that portion. Where differentials are used in the construction of the joint rates, they should be deducted before prorating and added to the division accruing to the carriers in the region where they apply. These rules or formulas were made subject to some exceptions which need not be given.

The report states that the assumed rates are intended to reflect general differences in transportation conditions. The factor of 80 per cent. gives the southwestern carriers an advantage of 25 per cent., and the use of 87 per cent. makes a difference in their favor of about 15 per cent. The Commission found that complexity in the bases to be employed is not desirable, that the differentiation provided for would produce sufficiently accurate and reasonable results and that divisions made in the manner specified will for the future be just, reasonable and equitable.

The southwestern lines presented a petition for rehearing which was denied. But the Commission made an additional report, 156 I. C. C. 94, and modified its findings as to joint rates applicable to traffic to and from points in Illinois and Wisconsin or in the eastern territory by changing the factor attributable to the haul north of the gateways other than Kansas City from 80 to 75 per cent. of the assumed rate, and by increasing from 10 cents to 15 cents the amount to be deducted from the western lines' proportion of joint rates applicable to and from points in eastern territory.

On the same day that it announced its second report, June 10, 1929, the Commission made the order. As to the joint rates in question, it directs that the "just, reasonable and equitable divisions in the aggregate north and south of said gateways" shall be made in accordance with the findings and formulas above mentioned. Divisions made on the bases prescribed, while decreasing the western trunk lines' shares on some shipments, will increase them on many more, and it is estimated that the order will operate to give those lines about $3,000,000 annually, over and above what would be yielded to them under existing divisions. This is much

less than one per cent. of the total freight operating revenues of the southwestern carriers.

The appellants contend that the Act requires the Commission to determine the divisions of each carrier upon a consideration of its own rights and needs, and does not authorize the Commission to base its order upon group conditions or upon average conditions in the group.

Section 15 (6) provides that whenever, after full hearing, the Commission is of opinion that divisions of joint rates are or will be unjust, unreasonable, inequitable or unduly preferential or prejudicial as between parties thereto, the Commission shall by order prescribe the just, reasonable and equitable divisions thereof to be received by the several carriers. "In so prescribing and determining the divisions of joint rates, fares and charges, the Commission shall give due consideration, among other things, to the efficiency with which the carriers concerned are operated, the amount of revenue required to pay their respective operating expenses, taxes, and a fair return on their railway property held for and used in the service of transportation, and the importance to the public of the transportation services of such carriers; and also whether any particular participating carrier is an originating, intermediate, or delivering line, and any other fact or circumstance which would ordinarily, without regard to the mileage haul, entitle one carrier to a greater or less proportion than another carrier of the joint rate, fare or charge." 49 U. S. C., § 15 (6).

The facts specified above and others necessarily or properly to be taken into account are to be considered having regard to the duty of the Commission, § 15a (2), to establish and adjust rates so that the carriers as a whole in each rate group or territory that the Commission may designate will, under management and expenditures such as are there specified, earn as nearly as may be a fair return upon the aggregate value of their operating property.

The Commission by § 15 (6) is required to consider the condition of each carrier and to determine whether the division of each joint rate is unreasonable or otherwise repugnant to the specified standards and what division will for the future be just, reasonable and equitable. *United States* v. *Abilene & So. Ry. Co.*, 265 U. S. 274, 291. The Commission may not change an existing division unless

it finds that division unjust or unreasonable. *Brimstone R. R. Co.* v. *United States,* 276 U. S. 104, 115. Cf. *Interstate Commerce Commission* v. *Louisville & Nashville R. R.,* 227 U. S. 88, 92. But it need not under all circumstances take specific evidence as to each rate of every carrier. When considering divisions of numerous joint rates applicable to traffic passing through gateways between different territories the Commission may make the required determinations and establish the bases for divisions between groups of carriers in the respective territories upon evidence which it reasonably may deem typical and to have sufficient probative weight to justify the necessary findings and the order in respect of each rate. That is to say, such typical evidence may sufficiently disclose the facts necessary to enable the Commission duly to consider the divisions of each joint rate to be received by every carrier. *New England Divisions Case,* 261 U. S. 184, 191, 196, 199. *Brimstone R. R. Co.* v. *United States, supra,* 116.

The evidence before the Commission is sufficient to disclose as to each carrier all the facts specified in § 15 (6) and to furnish an adequate and reasonable basis for the proper division of each of the joint rates applicable to the traffic here involved. The mere fact that carriers and divisions were dealt with on an average or group basis does not indicate that the Commission did not properly consider each carrier and rate or that it did not duly take into account the facts specified in § 15 (6) or that it failed to obey the statute in any respect.

Appellants assert that the order is based solely upon a comparison of average conditions of widely dissimilar carriers comprising each group and that its enforcement will bring about divisions so unjust and arbitrary as to be beyond the Commission's power. They show by the record that in each group there are carriers that earn little or no return, others that earn substantial amounts and some that make relatively high returns. They strongly emphasize that the prescribed divisions will operate in some instances to transfer substantial sums from very weak carriers in southwestern territory to prosperous ones in western territory, and insist that mere comparison of returns demonstrates that divisions on a group basis will be unjust and arbitrary. It seems to us that the table included

in the first report (p. 476), and others received in evidence* show as between individual carriers in each group so wide a range of rates of return that, if approximate similarity in that respect is essential to the order, its basis cannot be sustained.

"Average" as used in the report manifestly is not intended to refer to an arithmetical calculation, the quotient of a sum divided by the number of its terms. It is rather to be understood as an estimated general mean of the conditions of the several carriers constituting each group arrived at by the exercise of judgment upon the facts shown by the evidence. The reports satisfactorily show that the findings as to average group conditions taken as a whole are sustained by substantial and persuasive evidence. But they do not deal with the important question whether, under the evidence and having regard to the wide dissimilarities between rates of return earned by individual carriers in each territory, the use

*The Commission found that rates of return for individual carriers, namely, the principal Chicago-St. Louis and Chicago-Kansas City lines and the prominent southwestern lines, were as follows in 1922 to 1925, inclusive:

	1922	1923	1924	1925
Western Trunk Lines:	Per Cent	Per Cent	Per Cent	Per Cent
Chicago & Alton	1.05	3.59	2.86	2.87
C. & E. L.	3.03	3.82	1.62	2.37
C. B. & Q.	4.52	4.29	4.80	4.60
C. G. W.	.19	1.54	1.59	1.48
C. M. & St. P.	1.90	2.81	2.57	2.27
Illinois Central	5.92	5.17	4.76	4.76
Wabash	1.77	3.84	3.85	4.84
Southwestern Lines:				
A. T. & S. P.	4.61	5.17	4.63	5.16
G. C. & S. F.	6.05	5.67	9.04	7.55
H. & T. C.	4.30	4.44	5.28	4.33
H. E. & W. T.	2.26	1.75	1.91	7.21
I. G. N.	2.87	4.98	5.63	4.52
K. C. M. & O.	Deficit	.22	Deficit	.24
K. C. M. & O. of Texas	Deficit	Deficit	2.41	.47
K. C. S.	2.88	2.60	2.85	3.49
M. K. T.	4.72	3.78	4.29	4.96
M. K. T. of Texas	1.63	1.56	5.03	3.28
Mo. Pac.	2.09	2.21	3.81	4.14
St. L. S. F.	3.99	4.72	5.05	5.23
St. L. S. W.	7.05	7.44	4.97	4.81
St. L. S. W. of Texas	Deficit	Deficit	1.33	1.46
Texas & Pacific	2.72	3.84	4.15	4.11

The appellants in their brief suggest that the record shows similar data as to other carriers who were respondents before the Commission:

of the average or group basis is justified and whether it will produce unreasonable divisions. The general statements in the reports to the effect that the Commission in reaching its conclusions considered all the pertinent evidence add nothing to the prima facie presumption that generally attends determinations of the Commission. *Bluefield Co.* v. *Public Service Commission*, 262 U. S. 679, 688-689.

The Commission's failure specifically to report the facts and give the reasons on which it concluded that under the circumstances the use of the average or group basis is justified leaves the parties in doubt as to a matter essential to the case and imposes unnecessary work upon the courts called upon to consider the validity of the order. Complete statements by the Commission showing the grounds upon which its determinations rest are quite as necessary as are

	Rate of Return			
	1922 Per Cent	1923 Per Cent	1924 Per Cent	1925 Per Cent
Western trunk line respondents:				
Chicago & Northwestern Ry. Co.	3.47	3.04	3.23	4.14
Chi., St. P., Mpls. & Omaha	4.11	3.32	3.73	3.46
Minneapolis & St. Louis	1.32	1.22	Deficit	.36
Mpls., St. P. & S. Ste. Marie	3.31	3.75	3.04	4.10
Q., O. & K. C. R. R.	Deficit	Deficit	Deficit	Deficit
Southwestern respondents:				
Gulf Coast Lines	6.85	8.52	9.68	9.79
The Beaumont, Sour Lake & West. Ry. Co.				
New Orleans, Tex. & Mexico Ry. Co.				
St. Louis, Brownsville & Mex. Ry. Co.				
Ft. Worth & Denver City Ry. Co.	7.40	8.63	10.52	9.19
Sou. Pac. Lines in Tex. and La.	2.35	2.43	3.97	3.27
Galveston, Harrisburg & S. A. Ry. Co.				
Houston & Shreveport R. R. Co.				
Louisiana Western R. R. Co.				
Morgan's La. & Tex. R. R. & S. S. Co.				
Texas & New Orleans R. R. Co.				
*Houston & Tex. Central R. R. Co.				
*Houston East & West Tex. R. R. Co.				
Kansas, Okla. & Gulf Ry. Co.	2.80	1.31	.17	Deficit
Louisiana Ry. & Navigation Co.	.39	Deficit	Deficit	Deficit
San Antonio & Aransas Pass Ry.	.95	3.12	2.71	**
Vicksburg, Shreveport & Pacific	3.39	6.16	4.00	5.01

*The rates of return of the Houston & Texas Central R. R. Co. and Houston East & West Texas R. R. Co. were shown in the Commission's table, but the rates of return for the other respondents which form parts of the Southern Pacific System were excluded.

**Included as part of Southern Pacific Lines in 1925.

opinions of lower courts setting forth the reasons on which they base their decisions in cases analogous to this. *Wichita R. R.* v. *Public Utilities Commission*, 260 U. S. 48, 58. And we have recently emphasized the duty of such courts fully to state the grounds upon which they act. *Virginian Ry.* v. *United States*, 272 U. S. 658, 675. *Lawrence* v. *St. Louis-San Francisco Ry.*, 274 U. S. 588, 591-592. *Arkansas Commission* v. *Chicago &c. R. R.*, 274 U. S. 597, 603. *Hammond* v. *Schappi Bus Line*, 275 U. S. 164, 171. *Cleveland, etc., Ry.* v. *United States*, 275 U. S. 404, 414. *B. & O.* v. *United States*, 279 U. S. 781, 787. And the Commission is not excused by the fact that the carriers presented evidence on a group basis or by the omission of the southwestern lines in their petition for a rehearing to object to the use of averages. The proceedings before the Commission were for the determination of what divisions are and for the future will be reasonable. Here the issue is whether the Commission's amended determinations and the order based on them are valid. Appellants are not estopped from assailing the averages or groups adopted. A sound basis for the rule or formula prescribing the divisions is essential to compliance with the Act.

With this criticism of the reports, we turn to what is shown by the record. A study of the facts that may be gleaned from the latter leads to the opinion that, notwithstanding the wide differences in rates of return between carriers the basis adopted will not, at least on that account, result in unjust and unreasonable divisions. The Commission must consider the financial condition of the carriers but it is not required to make that the only test. And it did not take the average of the rates of return as the sole or principal factor for making the divisions. As to each carrier, operating and other conditions were shown and presumably considered by the Commission in deciding whether average or group conditions might appropriately be used. It is not shown that the order will require any service to be rendered at less than cost. It is impossible to make divisions that will yield the same rate of profit to each carrier or upon every commodity or shipment moved by it. The average cost of service was apparently given much weight. It is not suggested that the operating expenses of each carrier attributable to the traffic in question vary as does its rate of return on its business as a whole. Nor does it appear that the carriers having the highest rates of return from their total business or

from that in the territory in which they belong, move the traffic in question at comparatively low costs. Returns from total business of a carrier and the cost of handling the traffic covered by the joint rates are not dependent upon the same facts; the relation between them is slight and remote. For aught that appears the carriers having little or no return on their total business may move the traffic in question at low costs and realize a satisfactory percentage of profit on that part of their business.

Other things being equal, divisions made on the mileage basis will be the same as those made on the basis of relative costs. The Commission found that existing divisions give southwestern lines over 30 per cent. more than their mileage prorate and the order leaves them substantially more than would divisions on that basis. This indicates that the Commission considered the relatively high costs at which the southwestern lines, or some of them, moved the traffic in question. The fact that average conditions affecting cost of transportation in the two groups have changed and are still growing more favorable to the southwestern lines tends to justify a reduction of their existing divisions. The greater density found in western trunk line territory makes for lower costs, and that is shown to have been taken into account. Appellants have not sustained their contention.

Appellants claim that the Commission's order, if enforced, will operate to deprive them of their property without due process of law in violation of the Fifth Amendment to the Constitution.

It is well-established by the decisions of this court that, in order to invoke such constitutional protection, the facts relied upon to prevent enforcement of rates prescribed by governmental authority must be specifically alleged and from them it must clearly appear that the enforcement of the measure complained of will necessarily deny to the utility the just compensation safeguarded to it by the Constitution. *Aetna Insurance Co.* v. *Hyde,* 275 U. S. 440, 447-8, and cases cited. Here the joint rates themselves are not assailed as too low, but the claim is that the prescribed divisions are confiscatory. The same rules as to pleading and proof apply to orders prescribing divisions as to laws fixing rates. There is no allegation in the complaint, or evidence in the record to show, that any division to any of the appellants will not yield operating expenses

chargeable to the service covered by it plus a reasonable return on property value fairly attributable to that service. There is no foundation in the record for the contention.

Appellants contend that the provision of the order that applies to the division of revenue derived from traffic between points in the eastern territory and points in the southwestern territory is unlawful because the eastern carriers were not before the Commission and for lack of evidence to show whether the divisions received by them are just.

Section 15 (6) empowers the Commission to determine and prescribe divisions of joint rates "as between the carriers parties thereto" and requires it when so doing to consider the condition and needs of each participating carrier. The eastern carriers are parties to the joint rates covering the whole movement. The reasonableness of such rates is not involved. Every carrier, and there may be many, participating in the haul is entitled to its just share. The record, and especially testimony given in the District Court, shows that there is and long has been a primary division of such joint rates, one part for the carriers participating in transportation east of the Mississippi river and the other part for those hauling to or from that point. Cf. *Terminal R. R. Assn.* v. *United States*, 266 U. S. 17, 30. The proceedings here under consideration involve only the subdivision of that part of the revenue accruing to southwestern lines and western trunk lines for service performed west of the "breaking" point at Mississippi river crossings. The eastern carriers are not at all concerned in this subdivision. In proceedings concerning subdivisions of revenues assigned to the western part of the service, it is competent for the Commission to assume validity of the joint rates, their primary divisions and the subdivisions to cover the haul east of the river. The Act does not require all questions concerning all divisions of such joint rates to be determined in one proceeding. *United States* v. *Abilene & So. Ry. Co., supra*, 282. *New England Divisions Case, supra*, 201. There was no defect of parties.

In their brief appellants suggest other grounds on which they claim the order should be annulled. But we think them plainly insufficient to warrant reversal and that, in view of what already has been shown in this opinion, they do not merit separate discussion.

The cross appeal was taken by the United States and the Interstate Commerce Commission; the other appellees, western trunk lines, did not join therein. The investigation was pending for more than five years before the first report was announced, December 10, 1928. No order was then made. The Commisison allowed the carriers 60 days within which to agree on readjustments. In the report on rehearing, June 10, 1929, the Commission characterized the issues as important and the questions raised as relatively new and difficult. The order was made on the same day to take effect August 1, 1929. Before that date this suit was commenced, and the Commission postponed the taking effect of the order until December 1, 1929. In the meantime the case was tried and decided. It is clear that the Commission did not find that any emergency existed.

The decree dismissing the case was entered November 27, petition for appeal was filed that day and allowed November 30. Appellants applied for a stay. The time elapsing between the decree and the postponed effective date of the Commission's order was not sufficient to permit the giving of notice to appellees. The court found that novel and important questions concerning which there was serious doubt were presented by the assignment of errors; that if appellants, pending the appeal, paid the prescribed divisions and the order finally should be annulled they would be in danger of not being able to recover back the amounts in excess of existing divisions because of the financial condition of some of the western trunk line carriers; that as the prescribed divisions did not apply to all joint rates between the two territories, confusion and large useless expenditures would result if the order were enforced pending the appeal and the decree should be reversed; that the public interest would not suffer in any manner by reason of the stay and that the rights of the western trunk lines could be protected by bond. The stay was granted on appellants' giving a bond for $3,000,000 for the protection of the carriers to whom the order required payments of higher divisions.

Western trunk lines applied to have the stay vacated. After hearing and consideration of the showing and arguments made by the parties, the court reaffirmed its earlier findings and conclusions and further found that since the court's decision the inter-

ested carriers including appellants had worked diligently to establish the various percentages to be used in making the new divisions and that the work could not be completed for several months. After reviewing the situation the court said that the stay if continued in force would operate to save the carriers much labor and expense whether the appeal should be successful or not.

Undoubtedly the court had authority in its discretion, upon entry of the decree dismissing the bill, to stay the enforcement of the prescribed divisions pending appeal. *Virginian Ry.* v. *United States, supra,* 669. *Omaha & C. B. St. Ry. Co.* v. *Int. Com. Comm.,* 222 U. S. 582. *Cumberland Tel. Co.* v. *Pub. Serv. Comm.,* 260 U. S. 212, 219. *Cotting* v. *Kansas City Stockyards Co.,* 82 Fed. 850, 857. The court considered, and it cannot be said without reason, that the questions raised by the assignments of error are novel and doubtful. Unlike the situation presented in *Virginian Ry.* v. *United States, supra,* postponement of the taking effect of the order would inflict no loss upon the public—producers, shippers or consumers. It would not unfavorably affect the business of the carriers and, if the western trunk lines should ultimately be held entitled to the higher divisions, they could be protected by bond. We think it clear that the court did not abuse its discretion in granting the stay.

The decrees are affirmed.

A true copy.

Test:

Clerk, Supreme Court, U. S.